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## Planning Commission Staff Report

**TO:** PLANNING COMMISSION

**FROM:** JOSH ROGERS, PLANNER II *JR*  
(480) 503-6589, JOSH.ROGERS@GILBERTAZ.GOV

**THROUGH:** CATHERINE LORBEER, PRINCIPAL PLANNER *ajl*  
(480) 503-6016, CATHERINE.LORBEER@GILBERTAZ.GOV

**MEETING DATE:** JANUARY 8, 2020

**SUBJECT:** A. UP19-49 (UP11-05-A), CURALEAF: REQUEST TO MODIFY A  
CONDITIONAL USE PERMIT FOR APPROX. 0.07 ACRES  
LOCATED AT 175 S. HAMILTON PL. SUITE 110 FOR A MEDICAL  
MARIJUANA DISPENSARY IN THE LIGHT INDUSTRIAL (LI)  
ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT  
(PAD) OVERLAY.

**STRATEGIC INITIATIVE:** Prosperous Community

Streamlining the review process for the internal modification to an existing medical marijuana dispensary.

### **RECOMMENDED MOTION**

Make the Findings of Fact and approve UP19-49 (UP11-05-A), Curaleaf: Request to modify a Conditional Use Permit for approximately 0.07 acres located at 175 S. Hamilton Pl. Suite 110 for a Medical Marijuana Dispensary in the Light Industrial (LI) zoning district with a Planned Area Development (PAD) overlay.

#### **APPLICANT**

Company: Gammage & Burnham, PLC  
Name: Lindsay C. Schube  
Address: 2 N. Central Ave.

#### **OWNER**

Company: DRH Enterprises LLC  
Address: 175 S. Hamilton Pl, Unit J-101

Phoenix, AZ 85004  
Phone: 602-256-4471  
Email: lschube@gblaw.com

Gilbert, AZ 85233

## **BACKGROUND/DISCUSSION**

### **History**

<b>Date</b>	<b>Description</b>
<i>August 12, 1986</i>	Town Council approved Z86-14 (Ord. No. 470) to rezone 232 acres from Agricultural (AG) to L-1 and C-2 zoning districts with a PAD.
<i>September 4, 2002</i>	Planning Commission approved the Elliot Commerce Park Plat for 59 lots on 68 acres.
<i>September 12, 2002</i>	The Design Review Board approved DR02-48, open space plan for the Elliot Commerce Park.
<i>October 1, 2002</i>	Town Council approved Z02-12 (Ord. No. 1433) rezoning from Planned Area Development (PAD) to Garden Industrial (L-1) to create the Elliot Commerce Park PAD.
<i>July 6, 2011</i>	Planning Commission approved UP11-05, granting a Conditional Use Permit to permit a Medical Marijuana Dispensary in the Light Industrial zoning district.

### **Overview**

Curaleaf is the operator of an Arizona Department of Health Services (DHS) licensed Medical Marijuana Dispensary located at 175 S. Hamilton Place in the Light Industrial zoning district. The dispensary location was approved by the Planning Commission in 2011. The applicant is requesting to modify the conditions of approval for the existing Conditional Use Permit (UP11-05) to allow the operator greater flexibility to modify the internal layout of the dispensary while remaining in compliance with state law and with the gross square footage requirements established in Article 4.5014.B in the Land Development Code (LDC).

### **Surrounding Land Use & Zoning Designations:**

	<b>Existing Land Use Classification</b>	<b>Existing Zoning</b>	<b>Existing Use</b>
North	Light Industrial	Light Industrial (PAD)	Existing Industrial Use
South	Light Industrial	Light Industrial (PAD)	Surveillance Security Inc.
East	Light Industrial	Light Industrial (PAD)	Existing Industrial Use
West	Light Industrial	Light Industrial (PAD)	Existing Industrial Use
Site	Light Industrial	Light Industrial (PAD)	Curaleaf Medical Marijuana Dispensary

### **Project Data Table**

Site Development Regulations	Required per LDC	Existing
Medical Marijuana Dispensary Maximum gross floor area	3,000 sq.ft.	In compliance
Medical Marijuana Dispensary maximum secure on-site storage area	1,000 sq.ft.	In compliance

## **DISCUSSION**

The applicant is requesting to modify Conditional Use Permit UP11-05 conditions of approval as follows (underline = added wording and ~~striketrough~~ = wording removed):

1. The Project shall be in substantial conformance with Attachment 4: AERIAL Site Plan ~~Attachment #5: Phase 1 Floor Plan, and Attachment #6: Phase 1 Security Plan~~ and OPERATE IN COMPLIANCE WITH ALL APPLICABLE STATE DEPARTMENT OF HEALTH SERVICES' AND TOWN REQUIREMENTS. THE APPLICANT SHALL PROVIDE THE TOWN A SWORN STATEMENT CERTIFYING A CURRENT APPROVED SECURITY PLAN IS ON FILE WITH THE STATE DEPARTMENT OF HEALTH SERVICES.

*Staff Analysis – Condition of Approval No. 1 Modification*

### **Floor Plan**

As originally conditioned, any changes to the internal layout of the dispensary require a modification of the approved Conditional Use Permit through the Planning Commission at a public hearing. This modification will permit the applicant to modify the internal layout of the facility to meet their needs without the need for a public hearing. Any changes to the floor plan that would change the site layout or exterior of the structure would still be required to follow the Design Review process.

As a point of clarification, the dispensary still must adhere to the Town's regulation limiting the maximum gross square floor area of 3,000 sq.ft. and maximum secure on-site storage to 1,000 sq.ft. under Article 4.5014.B of the LDC.

### **Security Plan**

According to the applicant, *"Dispensary security plans include highly sensitive information, such as emergency procedures, alarm and panic button locations, video surveillance and retention procedures, etc. that should not be available to the public. In order to ensure the utmost security and safety for Curaleaf's patients and employees, this application proposes to submit to the Town an Affidavit of Filing, certifying DHS has an approved security plan on file."*

Town staff has reviewed the requirements for Medical Marijuana Dispensaries Security Plans in Section 4.5014.E of the LDC and the corresponding security requirements set forth by the Arizona Department of Health Services in Title 9, Chapter 17 DHS - Medical Marijuana Program. Staff's analysis has concluded the DHS's security requirements are more comprehensive than required by the Land Development Code (Attachment No. 6). Additionally, staff is understanding of the applicant's concern regarding the Security Plan becoming public knowledge through a Freedom of Information Act (FOIA) request submitted to the Town.

Therefore, in coordination with the Town Attorney's Office, the Police Department, and Development Services, Town staff has concluded that a sworn statement certifying an approved security plan has been filed with the Arizona Department of Health Services will satisfy the needs and requirements of the Town.

- ~~2. In the event that the Land Development Code is amended to permit either greater maximum floor area or additional exits, and if the Phase 2 exhibits listed below are in conformance with the Land Development Code, as amended, then the Project shall be in conformance with Attachment #7: Phase 2 Site Plan, Attachment #8: Phase 2 Floor Plan, and Attachment #9: Phase 2 Security Plan.~~

*Staff Analysis – Condition of Approval No. 2 Modification*

Phase 1 of the dispensary development plan consisted of a 2,400 sq.ft. facility with one entry/exit door in the front of the store. Phase 2 increased the total size of the dispensary to 3,000 sq.ft., the maximum square footage permitted in the LDC, and added an additional secure entry/exit door to the rear of the store for emergency purposes.

After speaking with the applicant and having reviewed the Phase 2 exhibits, staff has determined the Phase 2 plan was implemented and Condition No. 2 is no longer relevant.

3. The Medical Marijuana Dispensary Use and the subject site shall comply with all Town of Gilbert codes as well as all requirements identified under Article 4.5014 of the Land Development Code or as amended prior to Certificate of Occupancy for the Medical Marijuana Dispensary.

*Condition of Approval No. 3 Unchanged*

4. This Use Permit shall only become effective upon the Dispensary providing proof that the Dispensary is State-approved, certified and registered with the Arizona Department of Health Services pursuant to Arizona Revised Statutes, Title 36, Chapter 28.1.

*Condition of Approval No. 4 Unchanged*

**FINDINGS**

The Planning Commission is required to make four findings in order to modify a Conditional Use Permit. The findings are listed here, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

- 1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.***

With the proposed modification to the Conditional Use Permit, Town staff members will still be reviewing any changes to the floor plan through either a Tenant Improvement permit or through the Design Review process. The Town will continue to have an opportunity to review the changes without needing to bring them forward to the Planning Commission for approval.

A more comprehensive security plan, than what is required by the Town, is required to be approved by the Arizona Department of Health Services before certification can be granted to any medical marijuana facility. A sworn statement acknowledging the approval of the State's plan will satisfy the needs of the Town while streamlining the review process.

- 2. The proposed use conforms to the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council.***

The proposed modifications are consistent with the use requirements, design standards, height and setback criteria and are compatible with the adjacent land uses in the Industrial land use classification. The request meets the intent of the Gilbert General Plan Chapter 2, Goal 5.0 – Promote commercial, retail, and employment land uses that are compatible with the adjacent land uses and meet economic goals.

- 3. The proposed use conforms to the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.***

As conditioned, the medical marijuana dispensary complies with the regulations within the Light Industrial (LI) zoning district and meets the Findings of Fact. Additionally, the proposed modification is in compliance with all standards set forth for the Light Industrial zoning district, Section 4.5014 of the LDC for location, hours of operation and other general requirements and is subject to the approval of the Arizona Department of Health Services.

- 4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.***

Staff finds that the proposed modification to Conditional Use Permit UP11-05 is compatible with and will not interfere with the use and enjoyment of nearby properties. As conditioned, the dispensary must comply with all State and Municipal requirements and must meet the Findings of Fact required for granting a modification to a Conditional Use Permit.

Pursuant to the above analysis, Staff is of the opinion that the project meets the four findings required for granting the modified Conditional Use Permit.

## **PUBLIC NOTIFICATION AND INPUT**

A notice of public hearing was published in a newspaper of general circulation in the Town, an official notice was posted in all the required public places within the Town and neighborhood notice was provided per the requirements of the Land Development Code Article 5.205.

Staff has not received comment from the public.

### **PROPOSITION 207**

An agreement to “Waive Claims for Diminution in Value” pursuant to A.R.S. § 12-1134 was signed by the landowners of the subject site, in conformance with Section 5.201 of the Town of Gilbert Land Development Code. This waiver is located in the case file.

### **STAFF RECOMMENDATION**

Make the Findings of Fact and approve UP19-49 (UP11-05-A), Curaleaf: Request to modify a Conditional Use Permit for approximately 0.07 acres located at 175 S. Hamilton Pl. Suite 110 for a Medical Marijuana Dispensary in the Light Industrial (LI) zoning district with a Planned Area Development (PAD) overlay, subject to conditions:

1. The project shall be in substantial conformance with Attachment 4: Aerial Site Plan and operate in compliance with all applicable State Department of Health Services’ and Town requirements. The applicant shall provide the Town a sworn statement certifying a current approved security plan is on file with the State Department of Health Services.
2. The Medical Marijuana Dispensary Use and the subject site shall comply with all Town of Gilbert codes as well as all requirements identified under Article 4.5014 of the Land Development Code or as amended prior to Certificate of Occupancy for the Medical Marijuana Dispensary.
3. This Use Permit shall only become effective upon the Dispensary providing proof that the Dispensary is State-approved, certified and registered with the Arizona Department of Health Services pursuant to Arizona Revised Statutes, Title 36, Chapter 28.1.

Respectfully submitted,



Josh Rogers  
Planner II

### **Attachments and Enclosures:**

- 1) Findings of Fact

- 2) Notice of Public Hearing/Vicinity Map
- 3) Aerial Photo
- 4) Site Plan
- 5) Applicant Narrative
- 6) State and Local Security Requirements

**FINDINGS OF FACT  
UP19-49, Curaleaf**

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general;
2. The proposed use conforms with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council;
3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements; and
4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.



# ***Notice of Public***

UP11-05-A Curaleaf

Attachment 2: Notice of Public Hearing/Vicinity Map

January 8, 2020

**PLANNING COMMISSION DATE:**

**Wednesday, January 8, 2020\* TIME: 6:00 PM**

**LOCATION: Gilbert Municipal Center  
Council Chambers  
50 E. Civic Center Dr.  
Gilbert, AZ 85296**

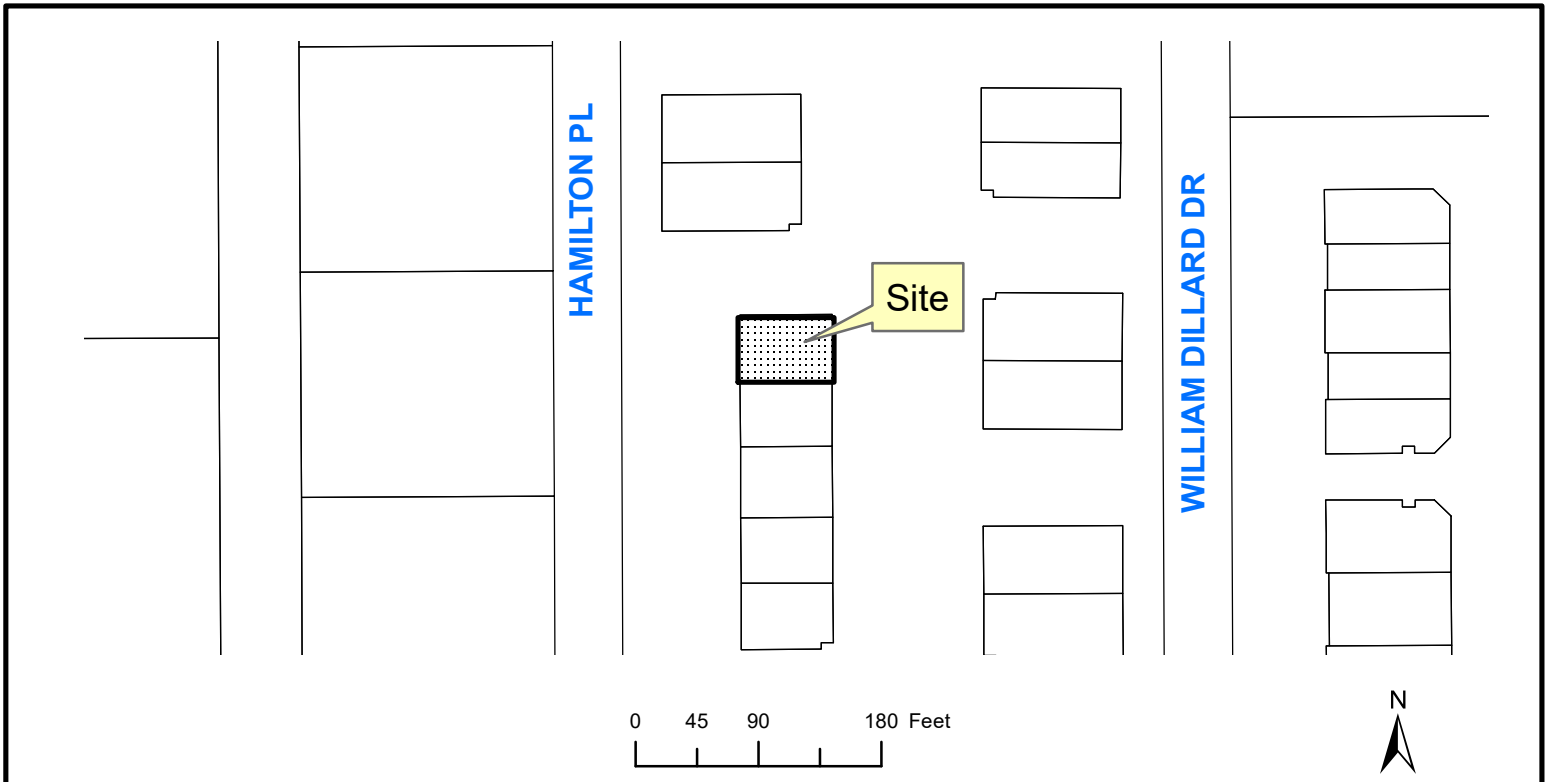
**\*Call Planning Division to verify date and time: (480) 503-6589**

\* The application is available to the public for review at the Town of Gilbert Planning Division Monday - Thursday 7AM - 6PM. Staff reports are available prior to the meeting at [www.gilbertaz.gov/departments/development-services/planning/planning-commission](http://www.gilbertaz.gov/departments/development-services/planning/planning-commission) and [www.gilbertdocs.com/gilbertagendaonline](http://www.gilbertdocs.com/gilbertagendaonline).

## **REQUESTED ACTION:**

UP11-05-A CURALEAF: Request to modify a Conditional Use Permit for approximately 0.07 acres of real property located at 175 S. Hamilton Pl. Suite 110 to modify the Conditions of Approval for the Curaleaf Medical Marijuana Dispensary Use Permit (UP11-05) in the Light Industrial (LI) zoning district with a Planned Area Development.

## **SITE LOCATION:**



**APPLICANT: Gammage & Burnham PLC  
CONTACT: Lindsay C. Schube  
ADDRESS: 2 N. Central Ave., 15th Floor  
Phoenix, Arizona 85004**

**TELEPHONE: (602) 256-4471  
E-MAIL: [lschube@gblaw.com](mailto:lschube@gblaw.com)**

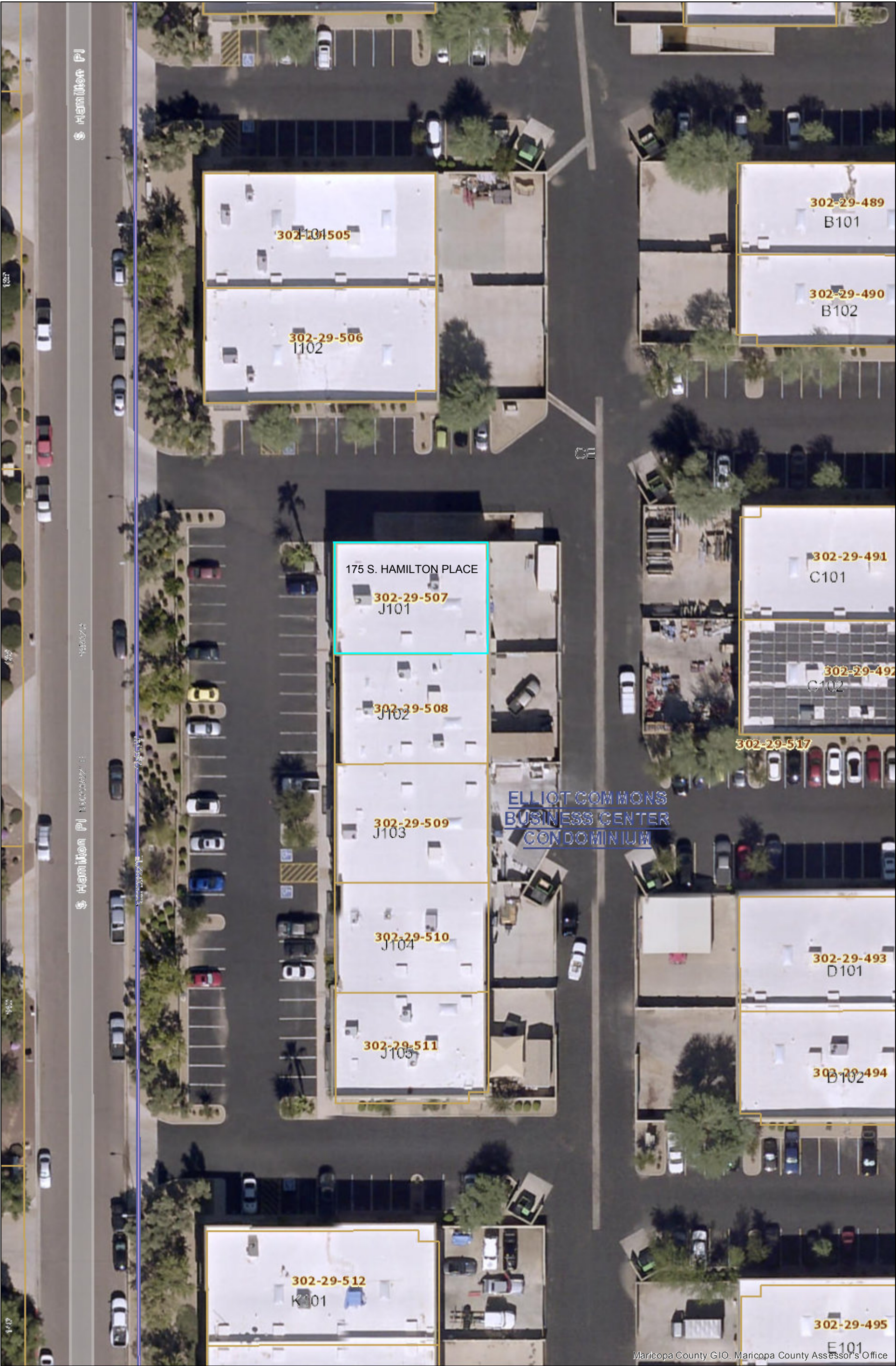








# Map





CONDITIONAL UISE PERMIT – STIPULATION MODIFICATION

175 SOUTH HAMILTON PLACE, SUITE 110

NOVEMBER 7, 2019

**INTRODUCTION**

Curaleaf Gilbert LLC (“Curaleaf”) is the operator of an existing Department of Health Services (“DHS”) licensed Medical Marijuana Dispensary (dispensary and cultivation) (“Dispensary”) located at 175 South Hamilton Place, Suite 110 (“Property”). See below Aerial Map. The Property is zoned Light Industrial (LI).



Aerial Map

In July 2011, the Town Planning Commission approved Conditional Use Permit UP11-05 (“UP11-05”) for the Dispensary on the Property, subject to stipulations. Subsequently, the Town issued a Certificate of Occupancy and DHS issued an Approval to Operate. The Dispensary has been operating on the Property since without any issues.

## **REQUEST**

***Minor Floor Plan Reconfiguration.*** Curaleaf is proposing a minor reconfiguration of the floor plan. More specifically, Curaleaf is proposing to expand the patient waiting and medicine dispensing areas, while eliminating the excess, underutilized offices, storage, and other ancillary areas. Importantly, Curaleaf is not proposing to expand the building footprint, modify the building elevations or site, or increase the overall gross square-footage of the suite – Curaleaf will continue to comply with the maximum 3,000 gross square-foot floor area, as required by the Town’s Land Development Code (“LDC”). Additionally, Curaleaf will continue to comply with the Town’s separation requirements from certain “protected uses” (LDC Section 4.5014.C). Approval of this minor modification will simply allow Curaleaf to better serve its patients in a more confidential setting – similar to a doctor’s office or a pharmacy. Curaleaf will process all requisite plans, permits, etc. with the Town to ensure compliance with all applicable Town codes and in keeping with DHS requirements, Curaleaf will notify DHS of this minor modification.

***Security Plan Modification.*** Dispensary security plans include highly sensitive information, such as emergency procedures, alarm and panic button locations, video surveillance and retention procedures, etc., that should not be available to the

general public. In order to ensure the utmost security and safety for Curaleaf's patients and employees, this application proposes to submit to the Town an Affidavit of Filing, certifying DHS has an approved security plan on file.

Curaleaf is proposing to modify the following stipulations of UP11-05:

**Stipulation No. 1**

*The Project shall be in general conformance with ~~Attachment #4: Phase 1 the Site Plan dated October \_\_, 2019. Attachment #5: Phase 1 Floor Plan, Attachment #6: Phase 1 Security Plan~~*

**Stipulation No. 2**

*~~In the event that the Land Development Code is amended to permit either greater maximum floor area or additional exits, and if the Phase 2 exhibits listed below are in conformance with the Land Development Code, as amended, then the Project shall be in conformance with Attachment #7: Phase 2 Site Plan, Attachment #8: Phase 2 Floor Plan, and Attachment #9: Phase 2 Security Plan.~~*

\* Note: The other stipulations will need to be renumbered accordingly.

**FINDINGS OF FACT**

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.

In 2011, the Town Planning Commission approved UP11-05 finding that the Dispensary would not be detrimental to the health, safety, or general welfare of the public. Since opening shortly thereafter, the Dispensary has not caused any adverse impacts. The simple reconfiguration of the floor plan will not change Curaleaf's current day-to-day operation. Accordingly, Curaleaf will not be detrimental to the health, safety, or general welfare of the public, with the approval of this stipulation modification. Dispensary operations will comply with all applicable Town and DHS laws and regulations.

- 2. The proposed use conforms with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council.**

The Town Planning Commission previously found the Dispensary complied with Light Industrial (LI) land use designation on the Property, which is intended for assembly, manufacturing, warehousing, laboratories, and other similar uses. The Dispensary, along with the proposed minor reconfiguration of the floor plan, is and will continue to be consistent with the Town's General Plan and the intent of the LI land use designation.

- 3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.**

Curaleaf will continue to operate in compliance with all applicable conditions, requirements, and standards of the Town and DHS.

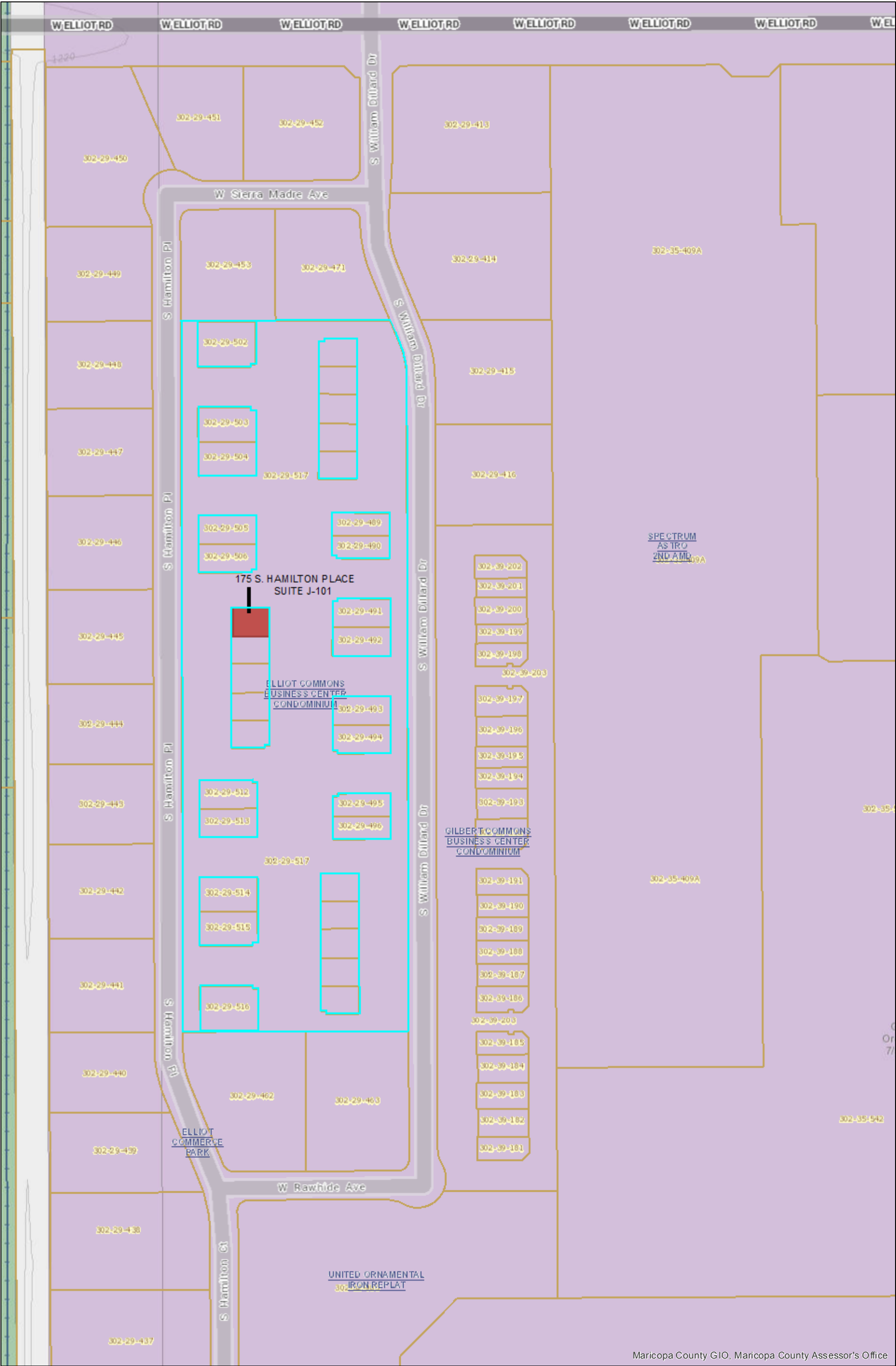
4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

Since opening, the Dispensary has received no zoning and/or building code citations from the Town or neighboring properties. This stipulation modification does not change Curaleaf's current day-to-day operation. Accordingly, approval of this stipulation modification will not unreasonably interfere with the use and enjoyment of nearby properties.





# Map



State and Local Security Requirements

***LDC 4.5014.E Security Plan Requirements.*** A Medical Marijuana Facility shall submit a Security Plan containing the following information:

1. Proof that the “Nonprofit Medical Marijuana Dispensary Agent” is at least twenty one (21) years of age and has not been convicted of an excluded felony offense.

**AZDHS Corresponding Requirement - R9-17-322.2**

2. Proof that any cultivation and storage of Medical Marijuana will take place in an “enclosed, locked facility” equipped with locks or other security devices that permit access only by persons authorized to enter pursuant to State and local law.

**AZDHS Corresponding Requirement - R9-17-318**

3. A floor plan that details the security measures required by Arizona law including an on-site alarm system and a single secure entrance. If an emergency exit is provided, it shall be detailed on the plan as being operable only in an emergency.

**AZDHS Corresponding Requirement - R9-17-305 & R9-17-307**

4. Additional protections, if any, against medical marijuana diversion and theft.

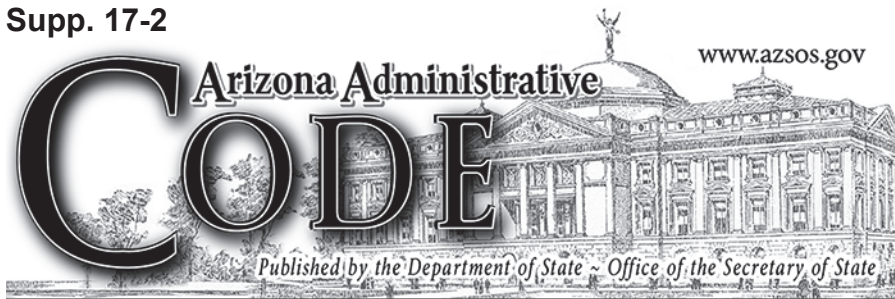
**AZDHS Corresponding Requirement - R9-17-318**

5. A sworn affidavit detailing the criminal history, if any, of the Board of Directors of the nonprofit operating the dispensary and/or detailing history of management employees.

**AZDHS Corresponding Requirement - A.R.S. § 36-2804.05**

6. Provide and update as needed a current list of all persons who are authorized to access the dispensary or offsite cultivation site.

**AZDHS Corresponding Requirement - R9-17-318.2**



Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

## **TITLE 9. Health Services**

### **Chapter 17. Department of Health Services - Medical Marijuana Program**

Sections, Parts, Exhibits, Tables or Appendices modified

R9-17-202, R9-17-204, R9-17-310

☐ REMOVE Supp. 12-4  
 Pages: 1 - 30

☐ REPLACE with Supp. 17-2  
 Pages: 1 - 31

*The agency's contact person who can answer questions about rules in this Chapter:*

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 Division of Licensing Services  
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 Telephone: (602) 364-1935  
 E-mail: Thomas.Salow@azdhs.gov  
 or

Name: Robert Lane, Manager  
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 Office of Administrative Counsel and Rules  
 150 N. 18th Ave., Suite 200  
 Phoenix, AZ 85007  
 Telephone: (602) 542-1020  
 E-mail: Robert.Lane@azdhs.gov

*Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.*

## **PUBLISHER**

**Arizona Department of State  
 Office of the Secretary of State, Administrative Rules Division**

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
ADMINISTRATIVE RULES DIVISION  
June 30, 2017

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### RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

### ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31  
Second Quarter: April 1 - June 30  
Third Quarter: July 1 - September 30  
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

### HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

### ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

### HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, [www.azsos.gov/services/legislative-filings](http://www.azsos.gov/services/legislative-filings).

### EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

### EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

### PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

*Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.*

**TITLE 9. HEALTH SERVICES****CHAPTER 17. DEPARTMENT OF HEALTH SERVICES - MEDICAL MARIJUANA PROGRAM**

Authority: A.R.S. § 36-2803

*Editor's Note: This Chapter was adopted under a one-year exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Proposition 203 passed by the voters in November 2010. Although exempt from certain provisions of the rulemaking process, Section 6 of the Proposition required the Department to provide the public with an opportunity to comment on these rules before publishing the exempted rules. The Department posted proposed rules for comment on its web site, conducted statewide public meetings and also posted public comments received on its web site. (Supp. 11-2).*

*Editor's Note: 9 A.A.C. 17, formerly contained the rules of the Department of Health Services - Pure Food Control. This Chapter expired under A.R.S. § 41-1056(E) at 13 A.A.R. 3531, effective August 31, 2007 (Supp. 07-3).*

**ARTICLE 1. GENERAL**

*Article 1, consisting of Sections R9-17-101 through R9-17-109, made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).*

Section	
R9-17-101.	Definitions ..... 2
R9-17-102.	Fees ..... 3
R9-17-103.	Application Submission ..... 3
R9-17-104.	Changing Information on a Registry Identification Card ..... 3
R9-17-105.	Requesting a Replacement Registry Identification Card ..... 3
R9-17-106.	Adding a Debilitating Medical Condition ..... 4
R9-17-107.	Time-frames ..... 4
Table 1.1	Time-frames ..... 6
R9-17-108.	Expiration of a Registry Identification Card or a Dispensary Registration Certificate ..... 6
R9-17-109.	Notifications and Void Registry Identification Cards ..... 7

**ARTICLE 2. QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS**

*Article 2, consisting of Sections R9-17-201 through R9-17-205, made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).*

Section	
R9-17-201.	Debilitating Medical Conditions ..... 7
R9-17-202.	Applying for a Registry Identification Card for a Qualifying Patient or a Designated Caregiver ..... 7
R9-17-203.	Amending a Qualifying Patient's or Designated Caregiver's Registry Identification Card ..... 11
R9-17-204.	Renewing a Qualifying Patient's or Designated Caregiver's Registry Identification Card ..... 13
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**ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS**

*Article 3, consisting of Sections R9-17-301 through R9-17-323, made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).*

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**ARTICLE 1. GENERAL****R9-17-101. Definitions**

In addition to the definitions in A.R.S. § 36-2801, the following definitions apply in this Chapter unless otherwise stated:

1. "Acquire" means to obtain through any type of transaction and from any source.
2. "Activities of daily living" means ambulating, bathing, dressing, grooming, eating, toileting, and getting in and out of bed.
3. "Amend" means adding or deleting information on an individual's registry identification card that affects the individual's ability to perform or delegate a specific act or function.
4. "Batch" means a specific lot of medical marijuana grown from one or more seeds or cuttings that are planted and harvested at the same time.
5. "Batch number" means a unique numeric or alphanumeric identifier assigned to a batch by a dispensary when the batch is planted.
6. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
7. "CHAA" means a Community Health Analysis Area, a geographic area based on population, established by the Department for use by public health programs.
8. "Change" means adding or deleting information on an individual's registry identification card that does not substantively affect the individual's ability to perform or delegate a specific act or function.
9. "Commercial device" means the same as in A.R.S. § 41-2051.
10. "Cultivation site" means the one additional location where marijuana may be cultivated, infused, or prepared for sale by and for a dispensary.
11. "Current photograph" means an image of an individual, taken no more than 60 calendar days before the submission of the individual's application, in a Department-approved electronic format capable of producing an image that:
  - a. Has a resolution of at least 600 x 600 pixels but not more than 1200 x 1200 pixels;
  - b. Is 2 inches by 2 inches in size;
  - c. Is in natural color;
  - d. Is a front view of the individual's full face, without a hat or headgear that obscures the hair or hairline;
  - e. Has a plain white or off-white background; and
  - f. Has between 1 and 1 3/8 inches from the bottom of the chin to the top of the head.
12. "Denial" means the Department's final decision not to issue a registry identification card, a dispensary registration certificate, or an approval of a change of dispensary or a dispensary's cultivation site location, to an applicant because the applicant or the application does not comply with the applicable requirements in A.R.S. Title 36, Chapter 28.1 or this Chapter.
13. "Dispensary" means the same as "nonprofit medical marijuana dispensary" as defined in A.R.S. § 36-2801.
14. "Dispensary agent" means the same as "nonprofit medical marijuana dispensary agent" as defined in A.R.S. § 36-2801.
15. "Edible food product" means a substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
16. "Enclosed area" when used in conjunction with "enclosed, locked facility" means outdoor space surrounded by solid, 10-foot walls, constructed of metal, concrete, or stone that prevent any viewing of the marijuana plants, and a 1-inch thick metal gate.
17. "Entity" means a "person" as defined in A.R.S. § 1-215.
18. "Generally accepted accounting principles" means the set of financial reporting standards established by the Financial Accounting Standards Board, the Governmental Accounting Standards Board, or another specialized body dealing with accounting and auditing matters.
19. "In-state financial institution" means the same as in A.R.S. § 6-101.
20. "Legal guardian" means an adult who is responsible for a minor:
  - a. Through acceptance of guardianship of the minor through a testamentary appointment or an appointment by a court pursuant to A.R.S. Title 14, Chapter 5, Article 2; or
  - b. As a "custodian" as defined in A.R.S. § 8-201.
21. "Medical record" means the same as:
  - a. "Adequate records" as defined in A.R.S. § 32-1401,
  - b. "Adequate medical records" as defined in A.R.S. § 32-1501,
  - c. "Adequate records" as defined in A.R.S. § 32-1800, or
  - d. "Adequate records" as defined in A.R.S. § 32-2901.
22. "Out-of-state financial institution" means the same as in A.R.S. § 6-101.
23. "Private school" means the same as in A.R.S. § 15-101.
24. "Public place":
  - a. Means any location, facility, or venue that is not intended for the regular exclusive use of an individual or a specific group of individuals;
  - b. Includes, but not is limited to:
    - i. Airports;
    - ii. Banks;
    - iii. Bars;
    - iv. Child care facilities;
    - v. Child care group homes during hours of operation;
    - vi. Common areas of apartment buildings, condominiums, or other multifamily housing facilities;
    - vii. Educational facilities;
    - viii. Entertainment facilities or venues;
    - ix. Health care institutions, except as provided in subsection (24)(c);
    - x. Hotel and motel common areas;
    - xi. Laundromats;
    - xii. Libraries;
    - xiii. Office buildings;
    - xiv. Parking lots;
    - xv. Parks;
    - xvi. Public transportation facilities;
    - xvii. Reception areas;
    - xviii. Restaurants;
    - xix. Retail food production or marketing establishments;
    - xx. Retail service establishments;
    - xxi. Retail stores;
    - xxii. Shopping malls;
    - xxiii. Sidewalks;

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- xxiv. Sports facilities;
- xxv. Theaters; and
- xxvi. Waiting rooms; and
- c. Does not include:
  - i. Nursing care institutions as defined in A.R.S. § 36-401,
  - ii. Hospices as defined in A.R.S. § 36-401,
  - iii. Assisted living centers as defined in A.R.S. § 36-401,
  - iv. Assisted living homes as defined in A.R.S. § 36-401,
  - v. Adult day health care facilities as defined in A.R.S. § 36-401,
  - vi. Adult foster care homes as defined in A.R.S. § 36-401, or
  - vii. Private residences.
- 25. "Public school" means the same as "school" as defined in A.R.S. § 15-101.
- 26. "Registry identification number" means the random 20-digit alphanumeric identifier generated by the Department, containing at least four numbers and four letters, issued by the Department to a qualifying patient, designated caregiver, dispensary, or dispensary agent.
- 27. "Revocation" means the Department's final decision that an individual's registry identification card or a dispensary registration certificate is rescinded because the individual or the dispensary does not comply with the applicable requirements in A.R.S. Title 36, Chapter 28.1 or this Chapter.
- 28. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday or a state-wide furlough day.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-102. Fees**

- A. An applicant submitting an application to the Department shall submit the following nonrefundable fees:
  - 1. Except as provided in R9-17-303(D), for registration of a dispensary, \$5,000;
  - 2. To renew the registration of a dispensary, \$1,000;
  - 3. To change the location of a dispensary, \$2,500;
  - 4. To change the location of a dispensary's cultivation site or add a cultivation site, \$2,500;
  - 5. For a registry identification card for a:
    - a. Qualifying patient, except as provided in subsection (B), \$150;
    - b. Designated caregiver, \$200; and
    - c. Dispensary agent, \$500;
  - 6. For renewing a registry identification card for a:
    - a. Qualifying patient, except as provided in subsection (B), \$150;
    - b. Designated caregiver, \$200; and
    - c. Dispensary agent, \$500;
  - 7. For amending or changing a registry identification card, \$10; and
  - 8. For requesting a replacement registry identification card, \$10.
- B. A qualifying patient may pay a reduced fee of \$75 if the qualifying patient submits, with the qualifying patient's application for a registry identification card or the qualifying patient's application to renew the qualifying patient's registry identification card, a copy of an eligibility notice or electronic bene-

fits transfer card demonstrating current participation in the U.S. Department of Agriculture, Food and Nutrition Services, Supplemental Nutrition Assistance Program.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-103. Application Submission**

- A. An applicant submitting an application for a registry identification card or to amend, change, or replace a registry identification card for a qualifying patient, designated caregiver, or dispensary agent shall submit the application electronically in a Department-provided format.
- B. A residence address or mailing address submitted for a qualifying patient or designated caregiver as part of an application for a registry identification card is located in Arizona.
- C. A mailing address submitted for a principal officer or board member as part of a dispensary certificate registration application or as part of an application for a dispensary agent registration identification card is located in Arizona.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-104. Changing Information on a Registry Identification Card**

Except as provided in R9-17-203(B) and (C), to make a change to a cardholder's name or address on the cardholder's registry identification card, the cardholder shall submit to the Department, within 10 working days after the change, a request for the change that includes:

- 1. The cardholder's name and the registry identification number on the cardholder's current registry identification card;
- 2. The cardholder's new name or address, as applicable;
- 3. For a change in the cardholder's name, one of the following with the cardholder's new name:
  - a. An Arizona driver's license,
  - b. An Arizona identification card, or
  - c. The photograph page in the cardholder's U.S. passport;
- 4. For a change in address, the county where the new address is located;
- 5. The effective date of the cardholder's new name or address; and
- 6. The applicable fee in R9-17-102 for changing a registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-105. Requesting a Replacement Registry Identification Card**

To request a replacement card for a cardholder's registry identification card that has been lost, stolen, or destroyed, the cardholder shall submit to the Department, within 10 working days after the cardholder's registry identification card was lost, stolen, or destroyed, a request for a replacement card that includes:

- 1. The cardholder's name and date of birth;
- 2. If known, the registry identification number on the cardholder's lost, stolen, or destroyed registry identification card;

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3. If the cardholder cannot provide the registry identification number on the cardholder's lost, stolen, or destroyed registry identification card, a copy of one of the following documents that the cardholder submitted when the cardholder obtained the registry identification card:
  - a. Arizona driver's license,
  - b. Arizona identification card,
  - c. Arizona registry identification card, or
  - d. Photograph page in the cardholder's U.S. passport; and
4. The applicable fee in R9-17-102 for requesting a replacement registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-106. Adding a Debilitating Medical Condition**

- A. An entity may request the addition of a medical condition to the list of debilitating medical conditions in R9-17-201 by submitting to the Department, at the times specified in subsection (C), the following in writing:
  1. The entity's name;
  2. The entity's mailing address, name of contact individual, telephone number, and, if applicable, e-mail address;
  3. The name of the medical condition the entity is requesting be added;
  4. A description of the symptoms and other physiological effects experienced by an individual suffering from the medical condition or a treatment of the medical condition that may impair the ability of the individual to accomplish activities of daily living;
  5. The availability of conventional medical treatments to provide therapeutic or palliative benefit for the medical condition or a treatment of the medical condition;
  6. A summary of the evidence that the use of marijuana will provide therapeutic or palliative benefit for the medical condition or a treatment of the medical condition; and
  7. Articles, published in peer-reviewed scientific journals, reporting the results of research on the effects of marijuana on the medical condition or a treatment of the medical condition supporting why the medical condition should be added.
- B. The Department shall:
  1. Acknowledge in writing the Department's receipt of a request for the addition of a medical condition to the list of debilitating medical conditions listed in R9-17-201 within 30 calendar days after receiving the request;
  2. Review the request to determine if the requester has provided evidence that:
    - a. The specified medical condition or treatment of the medical condition impairs the ability of the individual to accomplish activities of daily living, and
    - b. Marijuana usage provides a therapeutic or palliative benefit to an individual suffering from the medical condition or treatment of the medical condition;
  3. Within 90 calendar days after receiving the request, notify the requester that the Department has determined that the information provided by the requester:
    - a. Meets the requirements in subsection (B)(2) and the date the Department will conduct a public hearing to discuss the request; or
    - b. Does not meet the requirements in subsection (B)(2), the specific reason for the determination, and the process for requesting judicial review of the Department's determination pursuant to A.R.S. Title 12, Chapter 7, Article 6;

4. If applicable:
  - a. Schedule a public hearing to discuss the request;
  - b. Provide public notice of the public hearing by submitting a Notice of Public Information to the Office of the Secretary of State, for publication in the *Arizona Administrative Register* at least 30 calendar days before the date of the public hearing;
  - c. Post a copy of the request on the Department's web site for public comment at least 30 calendar days before the date of the public hearing; and
  - d. Hold the public hearing no more than 150 calendar days after receiving the request; and
5. Within 180 calendar days after receiving the request:
  - a. Add the medical condition to the list of debilitating medical conditions, or
  - b. Provide written notice to the requester of the Department's decision to deny the request that includes:
    - i. The specific reasons for the Department's decision; and
    - ii. The process for requesting judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.
- C. The Department shall accept requests for the addition of a medical condition to the list of debilitating medical conditions in R9-17-201 in January and July of each calendar year starting in January 2012.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-107. Time-frames**

- A. Within the administrative completeness review time-frame for each type of approval in Table 1.1, the Department shall:
  1. Issue a registry identification card or dispensary registration certificate;
  2. Provide a notice of administrative completeness to an applicant; or
  3. Provide a notice of deficiencies to an applicant, including a list of the information or documents needed to complete the application.
- B. An application for approval to operate a dispensary is not complete until the date the applicant states on a written notice provided to the Department that the dispensary is ready for an inspection by the Department.
- C. If the Department provides a notice of deficiencies to an applicant:
  1. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the Department receives the missing information or documents from the applicant;
  2. If the applicant does not submit the missing information or documents to the Department within the time-frame in Table 1.1, the Department shall consider the application withdrawn; and
  3. If the applicant submits the missing information or documents to the Department within the time-frame in Table 1.1, the substantive review time-frame begins on the date the Department receives the missing information or documents.
- D. Within the substantive review time-frame for each type of approval in Table 1.1, the Department:
  1. Shall issue or deny a registry identification card or dispensary registration certificate;



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2. May complete an inspection that may require more than one visit to a dispensary and, if applicable, the dispensary's cultivation site; and
  3. May make one written comprehensive request for more information, unless the Department and the applicant agree in writing to allow the Department to submit supplemental requests for information.
- E.** If the Department issues a written comprehensive request or a supplemental request for information:
1. The substantive review time-frame and the overall time-frame are suspended from the date of the written comprehensive request or the supplemental request for information until the date the Department receives all of the information requested, and
  2. The applicant shall submit to the Department all of the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.
- F.** If an applicant for an initial dispensary registration certificate is allocated a dispensary registration certificate as provided in R9-17-303, the Department shall provide a written notice to the applicant of the allocation of the dispensary registration certificate that contains the dispensary's registry identification number.
1. After the applicant receives the written notice of the allocation, the applicant shall submit to the Department for each principal officer or board member for whom fingerprints were submitted:
    - a. An application for a dispensary agent registry identification card that includes:
      - i. The principal officer's or board member's first name; middle initial, if applicable; last name; and suffix, if applicable;
      - ii. The principal officer's or board member's residence address and mailing address;
      - iii. The county where the principal officer or board member resides;
      - iv. The principal officer's or board member's date of birth;
      - v. The identifying number on the applicable card or document in subsection (F)(1)(b)(i) through (v);
      - vi. The name and registry identification number of the dispensary;
      - vii. One of the following:
        - (1) A statement that the principal officer or board member does not currently hold a valid registry identification card, or
        - (2) The assigned registry identification number for each valid registry identification card currently held by the principal officer or board member;
      - viii. A statement signed by the principal officer or board member pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
      - ix. An attestation that the information provided in and with the application is true and correct; and
      - x. The signature of the principal officer or board member and the date the principal officer or board member signed;
    - b. A copy the principal officer's or board member's:
      - i. Arizona driver's license issued on or after October 1, 1996;
      - ii. Arizona identification card issued on or after October 1, 1996;
      - iii. Arizona registry identification card;
      - iv. Photograph page in the principal officer's or board member's U.S. passport; or
      - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the principal officer or board member:
        - (1) Birth certificate verifying U.S. citizenship,
        - (2) U. S. Certificate of Naturalization, or
        - (3) U. S. Certificate of Citizenship;
  - c. A current photograph of the principal officer or board member; and
  - d. The applicable fee in R9-17-102 for applying for a dispensary agent registry identification card.
2. After receipt of the information and documents in subsection (F)(1), the Department shall review the information and documents.
- a. If the information and documents for at least one of the principal officers or board members complies with the A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue:
    - i. A dispensary agent registry identification card to any principal officer or board member whose dispensary agent registry identification card application complies with A.R.S. Title 36, Chapter 28.1 and this Chapter; and
    - ii. The dispensary registration certificate.
  - b. If the information and documents for a dispensary agent registry identification card application for any principal officer or board member does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall deny the dispensary agent registry identification card application and provide notice to the principal officer or board member and to the dispensary that includes:
    - i. The specific reasons for the denial; and
    - ii. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.
- G.** The Department shall issue:
1. A registry identification card or an approval to operate a dispensary, as applicable, if the Department determines that the applicant complies with A.R.S. Title 36, Chapter 28.1 and this Chapter;
  2. For an applicant for a registry identification card, a denial that includes the reason for the denial and the process for requesting judicial review if:
    - a. The Department determines that the applicant does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter; or
    - b. The applicant does not submit all of the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information;
  3. For an applicant for a dispensary registration certificate, if the Department determines that the dispensary registration certificate application complies with A.R.S. Title 36, Chapter 28.1 and this Chapter but the Department is not issuing a dispensary registration certificate to the appli-

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cant because all available dispensary registration certificates have been allocated according to the criteria and processes in R9-17-303, written notice that:

- a. The dispensary registration certificate application complies with A.R.S. Title 36, Chapter 28.1 and this Chapter;
  - b. The applicant was not allocated a dispensary registration certificate according to the criteria and processes in R9-17-303; and
  - c. The written notice is not a denial and is not considered a final decision of the Department subject to administrative review; or
4. For an applicant for a dispensary registration certificate, a denial that includes the reason for the denial and the process for administrative review if:

- a. The Department determines that a dispensary registration certificate application does not comply with A.R.S. Title 36, Chapter 28.1 or this Chapter; or
- b. The applicant does not submit all of the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**Table 1.1 Time-frames**

Type of approval	Authority (A.R.S. § or A.A.C.)	Overall Time-frame (in working days)	Time-frame for applicant to complete application (in working days)	Administrative Completeness Time-frame (in working days)	Substantive Review Time-frame (in working days)
Changing a registry identification card	§ 36-2808	10	10	5	5
Requesting a replacement registry identification card	§ 36-2804.06	5	5	2	3
Applying for a registry identification card for a qualifying patient or a designated caregiver	§ 36-2804.02(A)	15	30	5	10
Amending a registry identification card for a qualifying patient or a designated caregiver	§ 36-2808	10	10	5	5
Renewing a qualifying patient's or designated caregiver's registry identification card	§§ 36-2804.02(A) and 36-2804.06	15	15	5	10
Applying for a dispensary registration certificate	§ 36-2804	30	10	5	25
Applying for approval to operate a dispensary	R9-17-305	45		15	30
Changing a dispensary location or adding or changing a dispensary's cultivation site location	§ 36-2804 and R9-17-307	90	90	30	60
Renewing a dispensary registration certificate	§ 36-2804.06	15	15	5	10
Applying for a dispensary agent registry identification card	§§ 36-2804.01 and 36-2804.03	15	30	5	10
Renewing a dispensary agent's registry identification card	§ 36-2804.06	15	15	5	10

**Historical Note**

New Table 1.1 made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Table 1.1 amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired; Table 1.1 amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). Section symbols added to A.R.S. citations (Supp. 17-2).

**R9-17-108. Expiration of a Registry Identification Card or a Dispensary Registration Certificate**

- A. Except as provided in subsection (B), a registry identification card issued to a qualifying patient, designated caregiver, or

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dispensary agent is valid for one year after the date of issuance.

- B. If the Department issues a registry identification card to a qualifying patient, designated caregiver, or dispensary agent based on a request for a replacement registry identification card or an application to change or amend a registry identification card; the replacement, changed, or amended registry identification card shall have the same expiration date as the registry identification card being replaced, changed, or amended.
- C. Except as provided in subsection (D), a dispensary registration certificate is valid for one year after the date of issuance.
- D. If the Department issues an amended dispensary registration certificate based on a change of location or an addition of a cultivation site, the dispensary registration certificate shall have the same expiration date as the dispensary registration certificate previously held by the dispensary.
- E. An approval to operate a dispensary shall have the same expiration date as the dispensary registration certificate associated with the approval to operate the dispensary.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-109. Notifications and Void Registry Identification Cards**

- A. The Department shall provide written notice that a cardholder's registry identification card is void and no longer valid under A.R.S. Title 36, Chapter 28.1 and this Chapter to a:
  - 1. Qualifying patient when the Department receives notification from:
    - a. The qualifying patient that the qualifying patient no longer has a debilitating medical condition, or
    - b. The physician who provided the qualifying patient's written certification that the:
      - i. Qualifying patient no longer has a debilitating medical condition,
      - ii. Physician no longer believes that the qualifying patient would receive therapeutic or palliative benefit from the medical use of marijuana, or
      - iii. Physician believes that the qualifying patient is not using the medical marijuana as recommended,
  - 2. Designated caregiver when:
    - a. The Department receives notification from the designated caregiver's qualifying patient that the designated caregiver no longer assists the qualifying patient with the medical use of marijuana, or
    - b. The registry identification card for the qualifying patient that is listed on the designated caregiver's registry identification card is no longer valid, or
  - 3. Dispensary agent when:
    - a. The Department receives the written notification, required in R9-17-310(A)(9), that the dispensary agent:
      - i. No longer serves as a principal officer, board member, or medical director for the dispensary;
      - ii. Is no longer employed by the dispensary; or
      - iii. No longer provides volunteer service at or on behalf of the dispensary; or
    - b. The registration certificate for the dispensary that is listed on the dispensary agent's registry identification card is no longer valid.

- B. The Department shall void a qualifying patient's registry identification card:
  - 1. When the Department receives notification that the qualifying patient is deceased; or
  - 2. For a qualifying patient under 18 years of age, when the qualifying patient's designated caregiver's registry identification card is revoked.
- C. The written notice required in subsection (A) that a registry identification card is void is not a revocation and is not considered a final decision of the Department subject to judicial review.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**ARTICLE 2. QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS****R9-17-201. Debilitating Medical Conditions**

An individual applying for a qualifying patient registry identification card shall have a diagnosis from a physician of at least one of the following debilitating medical conditions:

- 1. Cancer;
- 2. Glaucoma;
- 3. Human immunodeficiency virus;
- 4. Acquired immune deficiency syndrome;
- 5. Hepatitis C;
- 6. Amyotrophic lateral sclerosis;
- 7. Crohn's disease;
- 8. Agitation of Alzheimer's disease;
- 9. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that produces cachexia or wasting syndrome;
- 10. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that produces severe and chronic pain;
- 11. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that produces severe nausea;
- 12. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that produces seizures, including those characteristic of epilepsy;
- 13. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that produces severe or persistent muscle spasms, including those characteristic of multiple sclerosis; or
- 14. A debilitating medical condition approved by the Department under A.R.S. § 36-2801.01 and R9-17-106.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-202. Applying for a Registry Identification Card for a Qualifying Patient or a Designated Caregiver**

- A. Except for a qualifying patient who is under 18 years of age, a qualifying patient is not required to have a designated caregiver.
- B. A qualifying patient may have only one designated caregiver at any given time.
- C. Except for a qualifying patient who is under 18 years of age, if the information submitted for a qualifying patient complies with A.R.S. Title 36, Chapter 28.1 and this Chapter but the

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information for the qualifying patient's designated caregiver does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue the registry identification card for the qualifying patient separate from issuing a registry identification card for the qualifying patient's designated caregiver.

- D. If the Department issues a registry identification card to a qualifying patient under subsection (C), the Department shall continue the process for issuing or denying the qualifying patient's designated caregiver's registry identification card.
- E. The Department shall not issue a designated caregiver's registry identification card before the Department issues the designated caregiver's qualifying patient's registry identification card.
- F. Except as provided in subsection (G), to apply for a registry identification card, a qualifying patient shall submit to the Department the following:
  1. An application in a Department-provided format that includes:
    - a. The qualifying patient's:
      - i. First name; middle initial, if applicable; last name; and suffix, if applicable;
      - ii. Date of birth; and
      - iii. Gender;
    - b. Except as provided in subsection (F)(1)(i), the qualifying patient's residence address and mailing address;
    - c. The county where the qualifying patient resides;
    - d. The qualifying patient's e-mail address;
    - e. The identifying number on the applicable card or document in subsection (F)(2)(a) through (e);
    - f. The name, address, and telephone number of the physician providing the written certification for medical marijuana for the qualifying patient;
    - g. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
    - h. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
    - i. If the qualifying patient is homeless, an address where the qualifying patient can receive mail;
    - j. Whether the qualifying patient would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
    - k. An attestation that the information provided in the application is true and correct; and
    - l. The signature of the qualifying patient and date the qualifying patient signed;
  2. A copy of the qualifying patient's:
    - a. Arizona driver's license issued on or after October 1, 1996;
    - b. Arizona identification card issued on or after October 1, 1996;
    - c. Arizona registry identification card;
    - d. Photograph page in the qualifying patient's U.S. passport; or
    - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the qualifying patient:
      - i. Birth certificate verifying U.S. citizenship,
      - ii. U.S. Certificate of Naturalization, or
      - iii. U.S. Certificate of Citizenship;
3. A current photograph of the qualifying patient;
4. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
5. A physician's written certification in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
  - a. The physician's:
    - i. Name,
    - ii. License number including an identification of the physician license type,
    - iii. Office address on file with the physician's licensing board,
    - iv. Telephone number on file with the physician's licensing board, and
    - v. E-mail address;
  - b. The qualifying patient's name and date of birth;
  - c. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
  - d. An identification, initialed by the physician, of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
  - e. If the debilitating medical condition identified in subsection (F)(5)(d) is a condition in:
    - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
    - ii. R9-17-201(14), the debilitating medical condition;
  - f. A statement, initialed by the physician, that the physician:
    - i. Has established a medical record for the qualifying patient, and
    - ii. Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
  - g. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
  - h. The date the physician conducted the in-person physical examination of the qualifying patient;
  - i. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
    - i. Medical records including medical records from other treating physicians from the previous 12 months,
    - ii. Response to conventional medications and medical therapies, and
    - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
  - j. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient;
  - k. A statement, initialed by the physician, that in the physician's professional opinion, the qualifying



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- patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
- l. A statement, initialed by the physician, that if the physician has referred the qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
  - m. A statement, initialed by the physician, that the physician has provided information to the qualifying patient, if the qualifying patient is female, that warns about:
    - i. The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breastfeeding, and
    - ii. The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;
  - n. An attestation that the information provided in the written certification is true and correct; and
  - o. The physician's signature and the date the physician signed;
6. If the qualifying patient is designating a caregiver, the following in a Department-provided format:
- a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The designated caregiver's date of birth;
  - c. The designated caregiver's residence address and mailing address;
  - d. The county where the designated caregiver resides;
  - e. The identifying number on the applicable card or document in subsection (F)(6)(i)(i) through (v);
  - f. One of the following:
    - i. A statement that the designated caregiver does not currently hold a valid registry identification card, or
    - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
  - g. An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
  - h. A statement signed by the designated caregiver:
    - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
    - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  - i. A copy of the designated caregiver's:
    - i. Arizona driver's license issued on or after October 1, 1996;
    - ii. Arizona identification card issued on or after October 1, 1996;
    - iii. Arizona registry identification card;
    - iv. Photograph page in the designated caregiver's U.S. passport; or
    - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
      - (1) Birth certificate verifying U.S. citizenship,
      - (2) U.S. Certificate of Naturalization, or
      - (3) U.S. Certificate of Citizenship;
  - j. A current photograph of the designated caregiver; and
  - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - i. The designated caregiver's fingerprints on a fingerprint card that includes:
      - (1) The designated caregiver's first name; middle initial, if applicable; and last name;
      - (2) The designated caregiver's signature;
      - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
      - (4) The designated caregiver's address;
      - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
      - (6) The designated caregiver's date of birth;
      - (7) The designated caregiver's Social Security number;
      - (8) The designated caregiver's citizenship status;
      - (9) The designated caregiver's gender;
      - (10) The designated caregiver's race;
      - (11) The designated caregiver's height;
      - (12) The designated caregiver's weight;
      - (13) The designated caregiver's hair color;
      - (14) The designated caregiver's eye color; and
      - (15) The designated caregiver's place of birth; or
    - ii. If the designated caregiver's fingerprints and information required in subsection (F)(6)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
7. The applicable fees in R9-17-102 for applying for:
- a. A qualifying patient registry identification card; and
  - b. If applicable, a designated caregiver registry identification card.
- G. To apply for a registry identification card for a qualifying patient who is under 18 years of age, the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient shall submit to the Department the following:
1. An application in a Department-provided format that includes:
    - a. The qualifying patient's:
      - i. First name; middle initial, if applicable; last name; and suffix, if applicable;
      - ii. Date of birth; and
      - iii. Gender;
    - b. The qualifying patient's residence address and mailing address;
    - c. The county where the qualifying patient resides;

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- d. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - e. The identifying number on the applicable card or document in subsection (G)(5)(a) through (e);
  - f. The qualifying patient's custodial parent's or legal guardian's residence address and mailing address;
  - g. The county where the qualifying patient's custodial parent or legal guardian resides;
  - h. The qualifying patient's custodial parent's or legal guardian's e-mail address;
  - i. The name, address, and telephone number of a physician who has a physician-patient relationship with the qualifying patient and is providing the written certification for medical marijuana for the qualifying patient;
  - j. The name, address, and telephone number of a second physician who has conducted a comprehensive review of the patient's medical record maintained by other treating physicians, and is providing a written certification for medical marijuana for the qualifying patient;
  - k. The qualifying patient's custodial parent's or legal guardian's date of birth;
  - l. Whether the qualifying patient's custodial parent or legal guardian is requesting authorization for cultivating medical marijuana plants for the qualifying patient's medical use because the qualifying patient's custodial parent or legal guardian believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  - m. Whether the qualifying patient's custodial parent or legal guardian would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
  - n. Whether the individual submitting the application on behalf of the qualifying patient under 18 years of age is the qualifying patient's custodial parent or legal guardian;
  - o. One of the following:
    - i. A statement that the qualifying patient's custodial parent or legal guardian does not currently hold a valid registry identification card, or
    - ii. The assigned registry identification number for the qualifying patient's custodial parent or legal guardian for each valid registry identification card currently held by the qualifying patient's custodial parent or legal guardian;
  - p. An attestation that the information provided in the application is true and correct; and
  - q. The signature of the qualifying patient's custodial parent or legal guardian and the date the qualifying patient's custodial parent or legal guardian signed;
2. A current photograph of the:
    - a. Qualifying patient, and
    - b. Qualifying patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver;
  3. An attestation in a Department-provided format signed and dated by the qualifying patient's custodial parent or legal guardian that the qualifying patient's custodial parent or legal guardian has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
  4. A statement in a Department-provided format signed by the qualifying patient's custodial parent or legal guardian who is serving as the qualifying patient's designated caregiver:
    - a. Allowing the qualifying patient's medical use of marijuana;
    - b. Agreeing to assist the qualifying patient with the medical use of marijuana; and
    - c. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  5. A copy of one of the following for the qualifying patient's custodial parent or legal guardian:
    - a. Arizona driver's license issued on or after October 1, 1996;
    - b. Arizona identification card issued on or after October 1, 1996;
    - c. Arizona registry identification card;
    - d. Photograph page in the qualifying patient's custodial parent or legal guardian U.S. passport; or
    - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the qualifying patient's custodial parent or legal guardian:
      - i. Birth certificate verifying U.S. citizenship,
      - ii. U. S. Certificate of Naturalization, or
      - iii. U. S. Certificate of Citizenship;
  6. If the individual submitting the application on behalf of a qualifying patient is the qualifying patient's legal guardian, a copy of documentation establishing the individual as the qualifying patient's legal guardian;
  7. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - a. The qualifying patient's custodial parent or legal guardian's fingerprints on a fingerprint card that includes:
      - i. The qualifying patient's custodial parent or legal guardian's first name; middle initial, if applicable; and last name;
      - ii. The qualifying patient's custodial parent or legal guardian's signature;
      - iii. If different from the qualifying patient's custodial parent or legal guardian, the signature of the individual physically rolling the qualifying patient's custodial parent's or legal guardian's fingerprints;
      - iv. The qualifying patient's custodial parent's or legal guardian's address;
      - v. If applicable, the qualifying patient's custodial parent's or legal guardian's surname before marriage and any names previously used by the qualifying patient's custodial parent or legal guardian;
      - vi. The qualifying patient's custodial parent's or legal guardian's date of birth;
      - vii. The qualifying patient's custodial parent's or legal guardian's Social Security number;
      - viii. The qualifying patient's custodial parent's or legal guardian's citizenship status;
      - ix. The qualifying patient's custodial parent's or legal guardian's gender;
      - x. The qualifying patient's custodial parent's or legal guardian's race;
      - xi. The qualifying patient's custodial parent's or legal guardian's height;
      - xii. The qualifying patient's custodial parent's or legal guardian's weight;

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- xiii. The qualifying patient's custodial parent's or legal guardian's hair color;
    - xiv. The qualifying patient's custodial parent's or legal guardian's eye color; and
    - xv. The qualifying patient's custodial parent's or legal guardian's place of birth; or
  - b. If the qualifying patient's custodial parent's or legal guardian's fingerprints and information required in subsection (G)(7)(a) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the qualifying patient's custodial parent or legal guardian as a result of the application;
- 8. A written certification from the physician in subsection (G)(1)(i) and a separate written certification from the physician in (G)(1)(j) in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
  - a. The physician's:
    - i. Name,
    - ii. License number including an identification of the physician license type,
    - iii. Office address on file with the physician's licensing board,
    - iv. Telephone number on file with the physician's licensing board, and
    - v. E-mail address;
  - b. The qualifying patient's name and date of birth;
  - c. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
  - d. If the debilitating medical condition identified in subsection (G)(9)(c) is a condition in:
    - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
    - ii. R9-17-201(14), the debilitating medical condition;
  - e. For the physician listed in subsection (G)(1)(i):
    - i. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
    - ii. A statement, initialed by the physician, that the physician:
      - (1) Has established a medical record for the qualifying patient, and
      - (2) Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
    - iii. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
    - iv. The date the physician conducted the in-person physical examination of the qualifying patient;
    - v. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
      - (1) Medical records, including medical records from other treating physicians from the previous 12 months,
      - (2) Response to conventional medications and medical therapies, and
      - (3) Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
  - vi. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the use of medical marijuana to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient; and
  - vii. A statement, initialed by the physician, that the physician has provided information to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient, if the qualifying patient is female, that warns about:
    - (1) The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breastfeeding, and
    - (2) The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;
  - f. For the physician listed in subsection (G)(1)(j), a statement, initialed by the physician, that the physician conducted a comprehensive review of the qualifying patient's medical records from other treating physicians;
  - g. A statement, initialed by the physician, that, in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
  - h. A statement, initialed by the physician, that if the physician has referred the qualifying patient's custodial parent or legal guardian to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
    - i. An attestation that the information provided in the written certification is true and correct; and
    - j. The physician's signature and the date the physician signed; and
- 9. The applicable fees in R9-17-102 for applying for a:
  - a. Qualifying patient registry identification card, and
  - b. Designated caregiver registry identification card.
- H.** For purposes of this Article, "25 miles" includes the area contained within a circle that extends for 25 miles in all directions from a specific location.
- I.** For purposes of this Article, "residence address" when used in conjunction with a qualifying patient means:
  - 1. The street address including town or city and zip code assigned by a local jurisdiction; or
  - 2. For property that does not have a street address assigned by a local jurisdiction, the legal description of the property on the title documents recorded by the assessor of the county in which the property is located.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by

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final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). Amended by final rulemaking 23 A.A.R. 970, effective June 6, 2017 (Supp. 17-2).

**R9-17-203. Amending a Qualifying Patient's or Designated Caregiver's Registry Identification Card**

- A.** To add a designated caregiver or to request a change of a qualifying patient's designated caregiver, the qualifying patient shall submit to the Department, within 10 working days after the addition or the change, the following:
1. An application in a Department-provided format that includes:
    - a. The qualifying patient's name and the registry identification number on the qualifying patient's current registry identification card;
    - b. If applicable, the name of the qualifying patient's current designated caregiver and the date the designated caregiver last provided or will last provide assistance to the qualifying patient;
    - c. The name of that the individual the qualifying patient is designating as caregiver; and
    - d. The signature of the qualifying patient and date the qualifying patient signed;
  2. For the caregiver the qualifying patient is designating:
    - a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - b. The designated caregiver's date of birth;
    - c. The designated caregiver's residence address and mailing address;
    - d. The county where the designated caregiver resides;
    - e. The identifying number on the applicable card or document in subsection (A)(2)(i)(i) through (v);
    - f. One of the following:
      - i. A statement that the designated caregiver does not currently hold a valid registry identification card; or
      - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
    - g. An attestation in a Department-provided format signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
    - h. A statement in a Department-provided format signed by the designated caregiver:
      - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
      - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
    - i. A copy the designated caregiver's:
      - i. Arizona driver's license issued on or after October 1, 1996;
      - ii. Arizona identification card issued on or after October 1, 1996;
      - iii. Arizona registry identification card;
      - iv. Photograph page in the designated caregiver's U.S. passport; or
      - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
        - (1) Birth certificate verifying U.S. citizenship,
        - (2) U. S. Certificate of Naturalization, or
        - (3) U. S. Certificate of Citizenship;
- j. A current photograph of the designated caregiver; and
- k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
- i. The designated caregiver's fingerprints on a fingerprint card that includes:
    - (1) The designated caregiver's first name; middle initial, if applicable; and last name;
    - (2) The designated caregiver's signature;
    - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
    - (4) The designated caregiver's address;
    - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
    - (6) The designated caregiver's date of birth;
    - (7) The designated caregiver's Social Security number;
    - (8) The designated caregiver's citizenship status;
    - (9) The designated caregiver's gender;
    - (10) The designated caregiver's race;
    - (11) The designated caregiver's height;
    - (12) The designated caregiver's weight;
    - (13) The designated caregiver's hair color;
    - (14) The designated caregiver's eye color; and
    - (15) The designated caregiver's place of birth; or
  - ii. If the designated caregiver's fingerprints and information required in subsection (A)(2)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
3. The applicable fee in R9-17-102 for applying for a designated caregiver registry identification card.
- B.** To amend a qualifying patient's address on the qualifying patient's registry identification card when the qualifying patient or the qualifying patient's designated caregiver is authorized to cultivate marijuana, the qualifying patient shall submit to the Department, within 10 working days after the change in address, the following:
1. The qualifying patient's name and the registry identification number on the qualifying patient's current registry identification card;
  2. The qualifying patient's new address;
  3. The county where the new address is located;
  4. The name of the qualifying patient's designated caregiver, if applicable;
  5. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  6. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated



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- caregiver to cultivate marijuana plants for the qualifying patient's medical use;
7. The effective date of the qualifying patient's new address; and
  8. The applicable fee in R9-17-102 for applying to:
    - a. Amend a qualifying patient's registry identification card; and
    - b. If the qualifying patient is designating a designated caregiver for cultivation authorization, amend a designated caregiver's registry identification card.
- C.** To request authorization to cultivate marijuana based on a qualifying patient's current address or a new address, the qualifying patient shall submit to the Department, if applicable within 10 working days after the change in address, the following:
1. The qualifying patient's name and the registry identification number on the qualifying patient's current registry identification card;
  2. If the qualifying patient's address is a new address, the qualifying patient's:
    - a. Current address,
    - b. New address,
    - c. The county where the new address is located, and
    - d. The effective date of the qualifying patient's new address;
  3. The name of the qualifying patient's designated caregiver, if applicable;
  4. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  5. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use; and
  6. The applicable fee in R9-17-102 for applying to:
    - a. Amend a qualifying patient's registry identification card; and
    - b. If the qualifying patient is designating a designated caregiver for cultivation authorization, amend a designated caregiver's registry identification card.
- Historical Note**
- New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).
- R9-17-204. Renewing a Qualifying Patient's or Designated Caregiver's Registry Identification Card**
- A.** Except for a qualifying patient who is under 18 years of age, to renew a qualifying patient's registry identification card, the qualifying patient shall submit the following to the Department at least 30 calendar days before the expiration date of the qualifying patient's registry identification card:
1. An application in a Department-provided format that includes:
    - a. The qualifying patient's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - b. The qualifying patient's date of birth;
    - c. Except as provided in subsection (A)(1)(j), the qualifying patient's residence address and mailing address;
    - d. The county where the qualifying patient resides;
    - e. The qualifying patient's e-mail address;
  - f. The registry identification number on the qualifying patient's current registry identification card;
  - g. The name, address, and telephone number of the physician providing the written certification for medical marijuana for the qualifying patient;
  - h. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  - i. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
  - j. If the qualifying patient is homeless, an address where the qualifying patient can receive mail;
  - k. Whether the qualifying patient would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
  - l. An attestation that the information provided in the application is true and correct; and
  - m. The signature of the qualifying patient and the date the qualifying patient signed;
2. If the qualifying patient's name in subsection (A)(1)(a) is not the same name as on the qualifying patient's current registry identification card, one of the following with the qualifying patient's new name:
    - a. An Arizona driver's license,
    - b. An Arizona identification card, or
    - c. The photograph page in the qualifying patient's U.S. passport;
  3. A current photograph of the qualifying patient;
  4. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  5. A physician's written certification in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's renewal application that includes:
    - a. The physician's:
      - i. Name,
      - ii. License number including an identification of the physician license type,
      - iii. Office address on file with the physician's licensing board,
      - iv. Telephone number on file with the physician's licensing board, and
      - v. E-mail address;
    - b. The qualifying patient's name and date of birth;
    - c. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
    - d. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
    - e. If the debilitating medical condition identified in subsection (A)(5)(d) is a condition in:
      - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
      - ii. R9-17-201(14), the debilitating medical condition;

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- f. A statement, initialed by the physician, that the physician:
    - i. Has established a medical record for the qualifying patient, and
    - ii. Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
  - g. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
  - h. The date the physician conducted the in-person physical examination of the qualifying patient;
  - i. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
    - i. Medical records including medical records from other treating physicians from the previous 12 months,
    - ii. Response to conventional medications and medical therapies, and
    - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
  - j. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient;
  - k. A statement, initialed by the physician, that in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
  - l. A statement, initialed by the physician, that if the physician has referred the qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
  - m. A statement, initialed by the physician, that the physician has provided information to the qualifying patient, if the qualifying patient is female, that warns about:
    - i. The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breastfeeding, and
    - ii. The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;
  - n. An attestation that the information provided in the written certification is true and correct; and
  - o. The physician's signature and the date the physician signed;
6. If the qualifying patient is designating a caregiver or if the qualifying patient's designated caregiver's registry identification card has the same expiration date as the qualifying patient's registry identification card, the following in a Department-provided format:
- a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The designated caregiver's date of birth;
  - c. The designated caregiver's residence address and mailing address;
  - d. The county where the designated caregiver resides;
  - e. If the qualifying patient is renewing the designated caregiver's registry identification card, the registry identification number on the designated caregiver's registry identification card associated with the qualifying patient;
  - f. If the qualifying patient is designating an individual not previously designated as the qualifying patient's designated caregiver, the identification number on and a copy of the designated caregiver's:
    - i. Arizona driver's license issued on or after October 1, 1996;
    - ii. Arizona identification card issued on or after October 1, 1996;
    - iii. Arizona registry identification card;
    - iv. Photograph page in the designated caregiver's U. S. passport; or
    - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
      - (1) Birth certificate verifying U.S. citizenship,
      - (2) U. S. Certificate of Naturalization, or
      - (3) U. S. Certificate of Citizenship;
  - g. If the qualifying patient is designating an individual not previously designated as the qualifying patient's designated caregiver, one of the following:
    - i. A statement that the designated caregiver does not currently hold a valid registry identification card, or
    - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
  - h. A current photograph of the designated caregiver;
  - i. An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
  - j. A statement in a Department-provided format signed by the designated caregiver:
    - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
    - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1; and
  - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - i. The designated caregiver's fingerprints on a fingerprint card that includes:
      - (1) The designated caregiver's first name; middle initial, if applicable; and last name;
      - (2) The designated caregiver's signature;
      - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
      - (4) The designated caregiver's address;
      - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
      - (6) The designated caregiver's date of birth;
      - (7) The designated caregiver's Social Security number;

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- (8) The designated caregiver's citizenship status;
      - (9) The designated caregiver's gender;
      - (10) The designated caregiver's race;
      - (11) The designated caregiver's height;
      - (12) The designated caregiver's weight;
      - (13) The designated caregiver's hair color;
      - (14) The designated caregiver's eye color; and
      - (15) The designated caregiver's place of birth; or
    - ii. If the designated caregiver's fingerprints and information required in subsection (A)(6)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application;
  7. If the qualifying patient's designated caregiver's registry identification card has the same expiration date as the qualifying patient's registry identification card and the designated caregiver's name in subsection (A)(6)(a) is not the same name as on the designated caregiver's current registry identification card, one of the following with the designated caregiver's new name:
    - a. An Arizona driver's license,
    - b. An Arizona identification card, or
    - c. The photograph page in the designated caregiver's U.S. passport; and
  8. The applicable fees in R9-17-102 for applying to:
    - a. Renew a qualifying patient's registry identification card; and
    - b. If applicable, issue or renew a designated caregiver's registry identification card.
- B.** To renew a registry identification card for a qualifying patient who is under 18 years of age, the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient shall submit to the Department the following:
1. An application in a Department-provided format that includes:
    - a. The qualifying patient's:
      - i. First name; middle initial, if applicable; last name; and suffix, if applicable; and
      - ii. Date of birth;
    - b. The qualifying patient's residence address and mailing address;
    - c. The county where the qualifying patient resides;
    - d. The registry identification number on the qualifying patient's current registry identification card;
    - e. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - f. The qualifying patient's custodial parent's or legal guardian's residence address and mailing address;
    - g. The county where the qualifying patient's custodial parent or legal guardian resides;
    - h. The qualifying patient's custodial parent's or legal guardian's e-mail address;
    - i. The registry identification number on the qualifying patient's custodial parent's or legal guardian's current registry identification card;
    - j. The name, address, and telephone number of a physician who has a physician-patient relationship with the qualifying patient and is providing the written certification for medical marijuana for the qualifying patient;
  - k. The name, address, and telephone number of a second physician who has conducted a comprehensive review of the qualifying patient's medical record maintained by other treating physicians, and is providing a written certification for medical marijuana for the qualifying patient;
  - l. Whether the qualifying patient's custodial parent or legal guardian is requesting approval for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient's custodial parent or legal guardian believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  - m. Whether the qualifying patient's custodial parent or legal guardian would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
  - n. A statement in a Department-provided format signed by the qualifying patient's custodial parent or legal guardian who is serving as the qualifying patient's designated caregiver:
    - i. Allowing the qualifying patient's medical use of marijuana;
    - ii. Agreeing to assist the qualifying patient with the medical use of marijuana; and
    - iii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  - o. An attestation that the information provided in the application is true and correct; and
  - p. The signature of the qualifying patient's custodial parent or legal guardian and the date the qualifying patient's custodial parent or legal guardian signed;
2. If the qualifying patient's custodial parent's or legal guardian's name in subsection (B)(1)(e) is not the same name as on the qualifying patient's custodial parent's or legal guardian's current registry identification card, one of the following with the custodial parent's or legal guardian's new name:
  - a. An Arizona driver's license,
  - b. An Arizona identification card, or
  - c. The photograph page in the qualifying patient's custodial parent's or legal guardian's U.S. passport;
3. A current photograph of the qualifying patient;
4. A written certification from the physician in subsection (B)(1)(j) and a separate written certification from the physician in subsection (B)(1)(k) in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's renewal application that includes:
  - a. The physician's:
    - i. Name,
    - ii. License number including an identification of the physician license type,
    - iii. Office address on file with the physician's licensing board,
    - iv. Telephone number on file with the physician's licensing board, and
    - v. E-mail address;
  - b. The qualifying patient's name and date of birth;

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- c. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
- d. If the debilitating medical condition identified in subsection (B)(4)(c) is a condition in:
  - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
  - ii. R9-17-201(14), the debilitating medical condition;
- e. For the physician listed in subsection (B)(1)(j):
  - i. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
  - ii. A statement, initialed by the physician, that the physician:
    - (1) Has established a medical record for the qualifying patient, and
    - (2) Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
  - iii. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
  - iv. The date the physician conducted the in-person physical examination of the qualifying patient;
  - v. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
    - (1) Medical records including medical records from other treating physicians from the previous 12 months,
    - (2) Response to conventional medications and medical therapies, and
    - (3) Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
  - vi. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the use of medical marijuana to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient; and
  - vii. A statement, initialed by the physician, that the physician has provided information to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient, if the qualifying patient is female, that warns about:
    - (1) The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breastfeeding, and
    - (2) The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;
- f. For the physician listed in subsection (B)(1)(k), a statement, initialed by the physician, that the physician conducted a comprehensive review of the qualifying patient's medical records from other treating physicians;
- g. A statement, initialed by the physician, that in the physician's professional opinion the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
- h. A statement, initialed by the physician, that if the physician has referred the qualifying patient's custodial parent or legal guardian to a dispensary, the physician has disclosed to the qualifying patient's custodial parent or legal guardian any personal or professional relationship the physician has with the dispensary;
- i. An attestation that the information provided in the written certification is true and correct; and
- j. The physician's signature and the date the physician signed; and
- 5. A current photograph of the qualifying patient's custodial parent or legal guardian;
- 6. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
  - a. The qualifying patient's custodial parent's or legal guardian's fingerprints on a fingerprint card that includes:
    - i. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; and last name;
    - ii. The qualifying patient's custodial parent's or legal guardian's signature;
    - iii. If different from the qualifying patient's custodial parent or legal guardian, the signature of the individual physically rolling the qualifying patient's custodial parent's or legal guardian's fingerprints;
    - iv. The qualifying patient's custodial parent's or legal guardian's address;
    - v. If applicable, the qualifying patient's custodial parent's or legal guardian's surname before marriage and any names previously used by the qualifying patient's custodial parent or legal guardian;
    - vi. The qualifying patient's custodial parent's or legal guardian's date of birth;
    - vii. The qualifying patient's custodial parent's or legal guardian's Social Security number;
    - viii. The qualifying patient's custodial parent's or legal guardian's citizenship status;
    - ix. The qualifying patient's custodial parent's or legal guardian's gender;
    - x. The qualifying patient's custodial parent's or legal guardian's race;
    - xi. The qualifying patient's custodial parent's or legal guardian's height;
    - xii. The qualifying patient's custodial parent's or legal guardian's weight;
    - xiii. The qualifying patient's custodial parent's or legal guardian's hair color;
    - xiv. The qualifying patient's custodial parent's or legal guardian's eye color; and
    - xv. The qualifying patient's custodial parent's or legal guardian's place of birth; or
  - b. If the qualifying patient's custodial parent's or legal guardian's fingerprints and information required in



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- subsection (B)(6)(a) were submitted as part of an application for a designated caregiver or a dispensary agent registry identification card to the Department within the previous six months, the registry identification number on the registry identification card issued to the patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver as a result of the application; and
7. The applicable fees in R9-17-102 for applying to renew a:
    - a. Qualifying patient's registry identification card; and
    - b. Designated caregiver's registry identification card.
- C. Except as provided in subsection (A)(6), to renew a qualifying patient's designated caregiver's registry identification card, the qualifying patient shall submit to the Department, at least 30 calendar days before the expiration date of the designated caregiver's registry identification card, the following:
1. An application in a Department-provided format that includes:
    - a. The qualifying patient's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - b. The registry identification number on the qualifying patient's current registry identification card;
    - c. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - d. The designated caregiver's date of birth;
    - e. The designated caregiver's residence address and mailing address;
    - f. The county where the designated caregiver resides;
    - g. The registry identification number on the designated caregiver's current registry identification card;
  2. If the designated caregiver's name in subsection (C)(1)(a) is not the same name as on the designated caregiver's current registry identification card, one of the following with the designated caregiver's new name:
    - a. An Arizona driver's license,
    - b. An Arizona identification card, or
    - c. The photograph page in the designated caregiver's U.S. passport;
  3. A current photograph of the designated caregiver;
  4. A statement in a Department-provided format signed by the designated caregiver:
    - a. Agreeing to assist the qualifying patient with the medical use of marijuana; and
    - b. Pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1; and
  5. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - a. The designated caregiver's fingerprints on a fingerprint card that includes:
      - i. The designated caregiver's first name; middle initial, if applicable; and last name;
      - ii. The designated caregiver's signature;
      - iii. If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
      - iv. The designated caregiver's address;
      - v. If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
      - vi. The designated caregiver's date of birth;
      - vii. The designated caregiver's Social Security number;
      - viii. The designated caregiver's citizenship status;
      - ix. The designated caregiver's gender;
      - x. The designated caregiver's race;
      - xi. The designated caregiver's height;
      - xii. The designated caregiver's weight;
      - xiii. The designated caregiver's hair color;
      - xiv. The designated caregiver's eye color; and
      - xv. The designated caregiver's place of birth; or
    - b. If the designated caregiver's fingerprints and information required in subsection (C)(1)(j)(i) were submitted as part of an application for a designated caregiver or a dispensary agent registry identification card to the Department within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
  6. The applicable fee in R9-17-102 for renewing a designated caregiver's registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 23 A.A.R. 970, effective June 6, 2017 (Supp. 17-2).

**R9-17-205. Denial or Revocation of a Qualifying Patient's or Designated Caregiver's Registry Identification Card**

- A. The Department shall deny a qualifying patient's application for or renewal of the qualifying patient's registry identification card if the qualifying patient does not have a debilitating medical condition.
- B. The Department shall deny a designated caregiver's application for or renewal of the designated caregiver's registry identification card if the designated caregiver does not meet the definition of "designated caregiver" in A.R.S. § 36-2801.
- C. The Department may deny a qualifying patient's or designated caregiver's application for or renewal of the qualifying patient's or designated caregiver's registry identification card if the qualifying patient or designated caregiver:
  1. Previously had a registry identification card revoked for not complying with A.R.S. Title 36, Chapter 28.1 or this Chapter; or
  2. Provides false or misleading information to the Department.
- D. The Department shall revoke a qualifying patient's or designated caregiver's registry identification card if the qualifying patient or designated caregiver provides medical marijuana to an individual who is not authorized to possess medical marijuana under A.R.S. Title 36, Chapter 28.1.
- E. The Department shall revoke a designated caregiver's registry identification card if the designated caregiver has been convicted of an excluded felony offense.
- F. The Department may revoke a qualifying patient's or designated caregiver's registry identification card if the qualifying patient or designated caregiver knowingly violates A.R.S. Title 36, Chapter 28.1 or this Chapter.
- G. If the Department denies or revokes a qualifying patient's registry identification card, the Department shall provide written notice to the qualifying patient that includes:
  1. The specific reason or reasons for the denial or revocation; and
  2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.
- H. If the Department denies or revokes a qualifying patient's designated caregiver's registry identification card, the Department shall provide written notice to the qualifying patient and the designated caregiver that includes:
  1. The specific reason or reasons for the denial or revocation; and

2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.

#### Historical Note

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

### ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS

#### R9-17-301. Principal Officers and Board Members

- A. For the purposes of this Chapter, in addition to the individual or individuals identified in the dispensary's by-laws as principal officers of the dispensary, the following individuals are considered principal officers:
  1. If an individual is applying for a dispensary registration certificate, the individual;
  2. If a corporation is applying for a dispensary registration certificate, two individuals who are officers of the corporation;
  3. If a partnership is applying for a dispensary registration certificate, two of the individuals who are partners;
  4. If a limited liability company is applying for a dispensary registration certificate, a manager or, if the limited liability company does not have a manager, an individual who is a member of the limited liability company;
  5. If an association or cooperative is applying for a dispensary registration certificate, two individuals who are members of the governing board of the association or cooperative;
  6. If a joint venture is applying for a dispensary registration certificate, two of the individuals who signed the joint venture agreement; and
  7. If a business organization type other than those described in subsections (A)(2) through (6) is applying for a dispensary registration certificate, two individuals who are members of the business organization.
- B. For purposes of this Chapter, in addition to the individual or individuals identified in the dispensary's by-laws as board members of the dispensary, the following individuals are considered board members:
  1. If a corporation is applying for a dispensary registration certificate, the officers of the corporation;
  2. If a partnership is applying for a dispensary registration certificate, the partners;
  3. If a limited liability company is applying for a dispensary registration certificate, the members of the limited liability company;
  4. If an association or cooperative is applying for a dispensary registration certificate, the members of the association or cooperative;
  5. If a joint venture is applying for a dispensary registration certificate, the individuals who signed the joint venture agreement; and
  6. If a business organization type other than the types of business organizations in subsections (B)(1) through (5), the members of the business organization.
- C. When a dispensary is required by this Chapter to provide information, sign documents, or ensure actions are taken, the individual or individuals in subsection (A) shall comply with the requirement on behalf of the dispensary.

#### Historical Note

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

#### R9-17-302. Repealed

#### Historical Note

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Repealed by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

#### R9-17-303. Dispensary Registration Certificate Allocation Process

- A. Each calendar year beginning in 2013, the Department shall review current valid dispensary registration certificates to determine if the Department may issue additional dispensary registration certificates pursuant to A.R.S. § 36-2804(C).
  1. If the Department determines that the Department may issue additional dispensary registration certificates, the Department shall post, on the Department's web site, the information that the Department is accepting dispensary registration certificate applications, including the deadline for accepting dispensary registration certificate applications.
    - a. The Department shall post the information in subsection (A)(1) at least 30 calendar days before the date the Department begins accepting applications.
    - b. The deadline for submission of dispensary registration certificate applications is 10 working days after the date the Department begins accepting applications.
    - c. Sixty working days after the date the Department begins accepting applications, the Department shall determine if the Department received more dispensary registration certificate applications that are complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter to participate in the allocation process than the Department is allowed to issue.
      - i. If the Department received more dispensary registration certificate applications than the Department is allowed to issue, the Department shall allocate any available dispensary registration certificates according to the priorities established in subsection (B).
      - ii. If the Department is allowed to issue a dispensary registration certificate for each dispensary registration certificate application the Department received, the Department shall allocate the dispensary registration certificates to those applicants.
  2. If the Department determines that the Department is not allowed to issue additional dispensary registration certificates, the Department shall, on the Department's web site:
    - a. Post the information that the Department is not accepting dispensary registration certificate applications, and
    - b. Maintain the information until the next review.
- B. Beginning in 2013, if the Department receives, by 60 working days after the date the Department begins accepting applications, more dispensary registration certificate applications that are complete and are in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter to participate in the allocation process than the Department is allowed to issue, the Department shall allocate the dispensary registration certificates according to the following criteria:
  1. If dispensary registration certificate applications are received for a county that does not contain a dispensary:

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- a. If only one dispensary registration certificate application for a dispensary located in the county is received, the Department shall allocate the dispensary registration certificate to that applicant; or
- b. If more than one dispensary registration certificate application for a dispensary located in the county is received, the Department shall prioritize and allocate a dispensary registration certificate to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:
  - i. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
  - ii. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location;
2. If there are additional dispensary registration certificates available after dispensary registration certificates are allocated according to subsection (B)(1), the Department shall allocate the dispensary registration certificates as follows:
  - a. The Department shall prioritize and assign a dispensary registration certificate allocation to a CHAA based on which CHAA has the most registry identification cards issued to qualifying patients who reside within the CHAA;
  - b. If the Department receives only one dispensary registration certificate application for a dispensary located in a CHAA assigned a dispensary registration certificate allocation under this subsection, the Department shall allocate the dispensary registration certificate to that applicant;
  - c. If the Department receives more than one dispensary registration certificate application for a dispensary located in a CHAA assigned a dispensary registration certificate allocation under this subsection, the Department shall prioritize and allocate dispensary registration certificates to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:
    - i. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
    - ii. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location;
3. If there are additional dispensary registration certificates available after dispensary registration certificates are allocated according to subsections (B)(1) and (2), for all dispensary registration certificate applications not allocated a dispensary registration certificate pursuant to subsections (B)(1) and (2) and any other dispensary registration certificate applications received, the Department shall prioritize and allocate a dispensary registration certificate to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:
  - a. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
  - b. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location; and
4. If there is a tie or a margin of 0.1% or less in the scores generated by applying the criteria in subsection (B), the Department shall randomly select one dispensary registration certificate application and allocate a dispensary registration certificate to that applicant.
- C. For purposes of subsection (B), "10 miles" includes the area contained within a circle that extends for 10 miles in all directions from a specific location.
- D. If the Department does not allocate a dispensary registration certificate to an applicant that had submitted a dispensary registration certificate application that the Department determined was complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter to participate in the allocation process, the Department shall:
  1. Provide a written notice to the applicant that states that, although the applicant's dispensary registration certificate application was complete and complied with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department did not allocate the applicant a dispensary registration certificate under the processes in this Section; and
  2. Return \$1,000 of the application fee to the applicant.
- E. If the Department receives a dispensary registration certificate application at a time other than the time stated in subsection (B), the Department shall return the dispensary registration certificate application, including the application fee, to the entity that submitted the dispensary registration certificate application.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-304. Applying for a Dispensary Registration Certificate**

- A. An individual shall not be an applicant, principal officer, or board member on:
  1. More than one dispensary registration certificate application for a location in a single CHAA, or
  2. More than five dispensary registration certificate applications for locations in different CHAAs.
- B. If the Department determines that an individual is an applicant, principal officer, or board member on more than one dispensary registration certificate application for a CHAA or more than five dispensary registration certificate applications, the Department shall review the applications and provide the applicant on each of the dispensary registration certificate applications with a written comprehensive request for more information that includes the specific requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter that the dispensary registration certificate application does not comply with.
  1. If an applicant withdraws an application to comply with this Chapter and submits information demonstrating compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall process the applicant's remaining dispensary registration certificate applications according to this Chapter.
  2. If an applicant does not withdraw an application or submit information demonstrating compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department

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- shall issue a denial to the applicant according to R9-17-322.
3. An application fee submitted with a dispensary registration certificate application in subsection (B) that is withdrawn is not refunded.
- C. To apply for a dispensary registration certificate, an entity shall submit to the Department the following:
1. An application in a Department-provided format that includes:
    - a. The legal name of the dispensary;
    - b. The physical address of the proposed dispensary;
    - c. The following information for the entity applying:
      - i. Name,
      - ii. Type of business organization,
      - iii. Mailing address,
      - iv. Telephone number, and
      - v. E-mail address;
    - d. The name of the individual designated to submit dispensary agent registry identification card applications on behalf of the dispensary;
    - e. The name and license number of the dispensary's medical director;
    - f. The name, residence address, and date of birth of each:
      - i. Principal officer, and
      - ii. Board member;
    - g. For each principal officer or board member, whether the principal officer or board member:
      - i. Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked;
      - ii. Is a physician currently providing written certifications for qualifying patients;
      - iii. Is a law enforcement officer; or
      - iv. Is employed by or a contractor of the Department;
    - h. Whether the entity agrees to allow the Department to submit supplemental requests for information;
    - i. A statement that, if the dispensary is issued a dispensary registration certificate, the dispensary will not operate until the dispensary is inspected and obtains an approval to operate from the Department;
    - j. An attestation that the information provided to the Department to apply for a dispensary registration certificate is true and correct; and
    - k. The signatures of the principal officers of the dispensary according to R9-17-301(A) and the date the principal officers signed;
  2. If the entity applying is one of the business organizations in R9-17-301(A)(2) through (7), a copy of the business organization's articles of incorporation, articles of organization, or partnership or joint venture documents that include:
    - a. The name of the business organization,
    - b. The type of business organization, and
    - c. The names and titles of the individuals in R9-17-301(A) and (B);
  3. For each principal officer and board member:
    - a. An attestation signed and dated by the principal officer or board member that the principal officer or board member has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801; and
    - b. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
      - i. The principal officer's or board member's fingerprints on a fingerprint card that includes:
        - (1) The principal officer's or board member's first name; middle initial, if applicable; and last name;
        - (2) The principal officer's or board member's signature;
        - (3) If different from the principal officer or board member, the signature of the individual physically rolling the principal officer's or board member's fingerprints;
        - (4) The principal officer's or board member's residence address;
        - (5) If applicable, the principal officer's or board member's surname before marriage and any names previously used by the principal officer or board member;
        - (6) The principal officer's or board member's date of birth;
        - (7) The principal officer's or board member's Social Security number;
        - (8) The principal officer's or board member's citizenship status;
        - (9) The principal officer's or board member's gender;
        - (10) The principal officer's or board member's race;
        - (11) The principal officer's or board member's height;
        - (12) The principal officer's or board member's weight;
        - (13) The principal officer's or board member's hair color;
        - (14) The principal officer's or board member's eye color; and
        - (15) The principal officer's or board member's place of birth; or
      - ii. If the fingerprints and information required in subsection (C)(3)(b)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the principal officer or board member as a result of the application;
  4. Policies and procedures that comply with the requirements in this Chapter for:
    - a. Inventory control,
    - b. Qualifying patient recordkeeping,
    - c. Security, and
    - d. Patient education and support;
  5. As required in A.R.S. § 36-2804(B)(1)(d), a sworn statement signed and dated by the individual or individuals in R9-17-301(A) certifying that the dispensary is in compliance with any local zoning restrictions;
  6. Documentation from the local jurisdiction where the dispensary's proposed physical address is located that:
    - a. There are no local zoning restrictions for the dispensary's location, or
    - b. The dispensary's location is in compliance with any local zoning restrictions;
  7. Documentation of:
    - a. Ownership of the physical address of the proposed dispensary, or



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- b. Permission from the owner of the physical address of the proposed dispensary for the entity applying for a dispensary registration certificate to operate a dispensary at the physical address;
  8. The dispensary's by-laws including:
    - a. The names and titles of individuals designated as principal officers and board members of the dispensary;
    - b. Whether the dispensary plans to:
      - i. Cultivate marijuana;
      - ii. Acquire marijuana from qualifying patients, designated caregivers, or other dispensaries;
      - iii. Sell or provide marijuana to other dispensaries;
      - iv. Transport marijuana;
      - v. Prepare, sell, or dispense marijuana-infused edible food products;
      - vi. Prepare, sell, or dispense marijuana-infused non-edible products;
      - vii. Sell or provide marijuana paraphernalia or other supplies related to the administration of marijuana to qualifying patients and designated caregivers;
      - viii. Deliver medical marijuana to qualifying patients; or
      - ix. Provide patient support and related services to qualifying patients;
    - c. Provisions for the disposition of revenues and receipts to ensure that the dispensary operates on a not-for-profit basis; and
    - d. Provisions for amending the dispensary's by-laws;
  9. A business plan demonstrating the on-going viability of the dispensary on a not-for-profit basis that includes:
    - a. A description and total dollar amount of expenditures already incurred to establish the dispensary or to secure a dispensary registration certificate by the individual or business organization applying for the dispensary registration certificate,
    - b. A description and total dollar amount of monies or tangible assets received for operating the dispensary from entities other than the individual applying for the dispensary registration certificate or a principal officer or board member associated with the dispensary including the entity's name and the interest in the dispensary or the benefit the entity obtained,
    - c. Projected expenditures expected before the dispensary is operational,
    - d. Projected expenditures after the dispensary is operational, and
    - e. Projected revenue; and
  10. The applicable fee in R9-17-102 for applying for a dispensary registration certificate.
- D. Before an entity with a dispensary registration certificate begins operating a dispensary, the entity shall apply for and obtain an approval to operate a dispensary from the Department.
  - A. To apply for approval to operate a dispensary, a person holding a dispensary registration certificate shall submit to the Department, at least 60 calendar days before the expiration of the dispensary registration certificate, the following:
    1. An application in a Department-provided format that includes:
      - a. The name and registry identification number of the dispensary;
      - b. The physical address of the dispensary;
      - c. The name, address, and date of birth of each dispensary agent;
      - d. The name and license number of the dispensary's medical director;
      - e. If applicable, the physical address of the dispensary's cultivation site;
      - f. The dispensary's Transaction Privilege Tax Number issued by the Arizona Department of Revenue;
      - g. The dispensary's proposed hours of operation during which the dispensary plans to be available to dispense medical marijuana to qualifying patients and designated caregivers;
      - h. Whether the dispensary agrees to allow the Department to submit supplemental requests for information;
      - i. Whether the dispensary and, if applicable, the dispensary's cultivation site are ready for an inspection by the Department;
      - j. If the dispensary and, if applicable, the dispensary's cultivation site are not ready for an inspection by the Department, the date the dispensary and, if applicable, the dispensary's cultivation site will be ready for an inspection by the Department;
      - k. An attestation that the information provided to the Department to apply for approval to operate a dispensary is true and correct; and
      - l. The signatures of the principal officers of the dispensary according to R9-17-301(A) and the date the principal officers signed;
    2. A copy of documentation issued by the local jurisdiction to the dispensary authorizing occupancy of the building as a dispensary and, if applicable, as the dispensary's cultivation site, such as a certificate of occupancy, a special use permit, or a conditional use permit;
    3. A sworn statement signed and dated by the individual or individuals in R9-17-301(A) certifying that the dispensary is in compliance with local zoning restrictions;
    4. The distance to the closest private school or public school from:
      - a. The dispensary; and
      - b. If applicable, the dispensary's cultivation site;
    5. A site plan drawn to scale of the dispensary location showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains;
    6. A floor plan drawn to scale of the building where the dispensary is located showing the:
      - a. Layout and dimensions of each room,
      - b. Name and function of each room,
      - c. Location of each hand washing sink,
      - d. Location of each toilet room,
      - e. Means of egress,
      - f. Location of each video camera,
      - g. Location of each panic button, and
      - h. Location of natural and artificial lighting sources;
    7. If applicable, a site plan drawn to scale of the dispensary's cultivation site showing streets, property lines,

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-305. Applying for Approval to Operate a Dispensary**

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- buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains; and
- 8. If applicable, a floor plan drawn to scale of each building at the dispensary's cultivation site showing the:
  - a. Layout and dimensions of each room,
  - b. Name and function of each room,
  - c. Location of each hand washing sink,
  - d. Location of each toilet room,
  - e. Means of egress,
  - f. Location of each video camera,
  - g. Location of each panic button, and
  - h. Location of natural and artificial lighting sources.

- B. A dispensary's cultivation site may be located anywhere in the state where a cultivation site is allowed by the local jurisdiction.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-306. Changes to a Dispensary Registration Certificate**

- A. A dispensary may not transfer or assign the dispensary registration certificate.
- B. A dispensary may change the location of the:
  - 1. Dispensary:
    - a. Within the first three years after the Department issues the dispensary's registration certificate, to another location in the CHAA where the dispensary is located; or
    - b. After the first three years after the Department issues a dispensary registration certificate to the dispensary, to another location in the state; or
  - 2. Dispensary's cultivation site to another location in the state.
- C. A dispensary or the dispensary's cultivation site shall not cultivate, manufacture, distribute, dispense, or sell medical marijuana at a new location until the dispensary submits an application for a change in a dispensary location or a change or addition of a cultivation site in R9-17-307 and the Department issues an amended dispensary registration certificate or an approval for the dispensary's cultivation site's new location to the dispensary.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-307. Applying to Change a Dispensary's Location or Change or Add a Dispensary's Cultivation Site**

- A. To change the location of a dispensary or the dispensary's cultivation site or to add a cultivation site, the dispensary shall submit an application to the Department that includes:
  - 1. The following information in a Department-provided format:
    - a. The legal name of the dispensary;
    - b. The registry identification number for the dispensary;
    - c. Whether the request is for:
      - i. A change of location for the dispensary,
      - ii. A change of location for the dispensary's cultivation site, or
      - iii. An addition of a cultivation site;
    - d. The current physical address of the dispensary or the dispensary's cultivation site;
    - e. The physical address of the proposed location for the dispensary or the dispensary's cultivation site;

- f. The distance to the closest public or private school from:
    - i. The proposed location for the dispensary, or
    - ii. The proposed location for the dispensary's cultivation site;
  - g. The name of the entity applying;
  - h. If applicable, the anticipated date of the change of location;
  - i. Whether the proposed dispensary or the dispensary's proposed cultivation site is ready for an inspection by the Department;
  - j. If the proposed dispensary or the dispensary's proposed cultivation site is not ready for an inspection by the Department, the date the dispensary or the dispensary's cultivation site will be ready for an inspection by the Department;
  - k. An attestation that the information provided to the Department to apply for a change in location is true and correct; and
  - l. The signature of the individual or individuals in R9-17-301(A) and the date the individual or individuals signed;
- 2. A copy of documentation issued by the local jurisdiction to the dispensary authorizing occupancy of the proposed building as a dispensary or the dispensary's cultivation site such as a certificate of occupancy, a special use permit, or a conditional use permit;
  - 3. A sworn statement signed by the individual or individuals in R9-17-301(A) certifying that the building where the proposed dispensary or the dispensary's proposed cultivation site will be located is in compliance with local zoning restrictions;
  - 4. If the change in location is for the dispensary:
    - a. A site plan drawn to scale of the proposed dispensary location showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains; and
    - b. A floor plan drawn to scale of the building where the proposed dispensary is located showing the:
      - i. Layout and dimensions of each room,
      - ii. Name and function of each room,
      - iii. Location of each hand washing sink,
      - iv. Location of each toilet room,
      - v. Means of egress,
      - vi. Location of each video camera,
      - vii. Location of each panic button, and
      - viii. Location of natural and artificial lighting sources;
  - 5. If the change in location is for the dispensary's cultivation site or if adding a cultivation site:
    - a. A site plan drawn to scale of the dispensary's proposed cultivation site showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains; and
    - b. If applicable, a floor plan drawn to scale of each building used by the dispensary's proposed cultivation site showing the:
      - i. Layout and dimensions of each room,
      - ii. Name and function of each room,
      - iii. Location of each hand washing sink,
      - iv. Location of each toilet room,
      - v. Means of egress,
      - vi. Location of each video camera,
      - vii. Location of each panic button, and

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- viii. Location of natural and artificial lighting sources; and
- 6. The applicable fee in R9-17-102 for applying for a change in location or adding a cultivation site.
- B.** If the information and documents submitted by the dispensary comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue an amended dispensary registration certificate that includes the new address of the new location and retains the expiration date of the previously issued dispensary registration certificate.
- C.** An application for a change in location of a dispensary or a dispensary's cultivation site or the addition of a cultivation site may not be combined with an application for renewing a dispensary registration certificate. The Department shall process each application separately according to the applicable timeframe established in R9-17-107.
- D.** A dispensary shall submit written notification to the Department when the dispensary no longer uses a previously approved cultivation site.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-308. Renewing a Dispensary Registration Certificate**

- A.** An entity with a dispensary registration certificate that has not submitted an application for approval to operate a dispensary to the Department at least 60 calendar days before the expiration date of the dispensary registration certificate or has not obtained an approval to operate a dispensary issued by the Department is prohibited from renewing the dispensary registration certificate.
- B.** To renew a dispensary registration certificate, a dispensary that has an approval to operate a dispensary issued by the Department, shall submit to the Department, at least 30 calendar days before the expiration date of the dispensary's current dispensary registration certificate, the following:
  - 1. An application in a Department-provided format that includes:
    - a. The legal name of the dispensary;
    - b. The registry identification number for the dispensary;
    - c. The physical address of the dispensary;
    - d. The name of the entity applying;
    - e. The name of the individual designated to submit dispensary agent registry identification card applications on behalf of the dispensary;
    - f. The name and license number of the dispensary's medical director;
    - g. The dispensary's hours of operation during which the dispensary is available to dispense medical marijuana to qualifying patients and designated caregivers;
    - h. The name, address, date of birth, and registry identification number of each:
      - i. Principal officer,
      - ii. Board member, and
      - iii. Dispensary agent;
    - i. For each principal officer or board member, whether the principal officer or board member:
      - i. Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked,
      - ii. Is a physician currently providing written certifications for qualifying patients,
      - iii. Is a law enforcement officer, or

- iv. Is employed by or a contractor of the Department;
- j. The dispensary's Transaction Privilege Tax Number issued by the Arizona Department of Revenue;
- k. Whether the dispensary agrees to allow the Department to submit supplemental requests for information;
- l. An attestation that the information provided to the Department to renew the dispensary registration certificate is true and correct; and
- m. The signature of the individual or individuals in R9-17-301(A) and the date the individual or individuals signed;
- 2. If the application is for renewing a dispensary registration certificate that was initially issued within the previous 12 months, a copy of the dispensary's approval to operate a dispensary issued by the Department;
- 3. A copy of an annual financial statement for the previous year, or for the portion of the previous year the dispensary was operational, prepared according to generally accepted accounting principles;
- 4. A report of an audit by an independent certified public accountant of the annual financial statement required in subsection (B)(3); and
- 5. The applicable fee in R9-17-102 for applying to renew a dispensary registration certificate.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-309. Inspections**

- A.** Submission of an application for a dispensary registration certificate constitutes permission for entry to and inspection of the dispensary and, if applicable, the dispensary's cultivation site.
- B.** Except as provided in subsection (D), an onsite inspection of a dispensary or the dispensary's cultivation site shall occur at a date and time agreed to by the dispensary and the Department that is no later than five working days after the date the Department submits a written request to the dispensary to schedule the certification or compliance inspection, unless the Department agrees to a later date and time.
- C.** The Department shall not accept allegations of a dispensary's noncompliance with A.R.S. Title 36, Chapter 28.1 or this Chapter from an anonymous source.
- D.** If the Department receives an allegation of a dispensary's or a dispensary's cultivation site's noncompliance with A.R.S. Title 36, Chapter 28.1 or this Chapter, the Department may conduct an unannounced inspection of the dispensary or the dispensary's cultivation site.
- E.** If the Department identifies a violation of A.R.S. Title 36, Chapter 28.1 or this Chapter during an inspection of a dispensary or the dispensary's cultivation site:
  - 1. The Department shall provide the dispensary with a written notice that includes the specific rule or statute that was violated; and
  - 2. The dispensary shall notify the Department in writing, with a postmark date within 20 working days after the date of the notice of violations, identifying the corrective actions taken and the date of the correction.

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**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-310. Administration****A.** A dispensary shall:

1. Ensure that the dispensary is operating and available to dispense medical marijuana to qualifying patients and designated caregivers at least 30 hours weekly between the hours of 7:00 a.m. and 10:00 p.m.;
2. Develop, document, and implement policies and procedures regarding:
  - a. Job descriptions and employment contracts, including:
    - i. Personnel duties, authority, responsibilities, and qualifications;
    - ii. Personnel supervision;
    - iii. Training in and adherence to confidentiality requirements;
    - iv. Periodic performance evaluations; and
    - v. Disciplinary actions;
  - b. Business records, such as manual or computerized records of assets and liabilities, monetary transactions, journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers;
  - c. Inventory control, including:
    - i. Tracking;
    - ii. Packaging;
    - iii. Accepting marijuana from qualifying patients and designated caregivers;
    - iv. Acquiring marijuana from other dispensaries; and
    - v. Disposing of unusable marijuana, which may include submitting any unusable marijuana to a local law enforcement agency;
  - d. Qualifying patient records, including purchases, denials of sale, any delivery options, confidentiality, and retention; and
  - e. Patient education and support, including:
    - i. Availability of different strains of marijuana and the purported effects of the different strains;
    - ii. Information about the purported effectiveness of various methods, forms, and routes of medical marijuana administration;
    - iii. Methods of tracking the effects on a qualifying patient of different strains and forms of marijuana; and
    - iv. Prohibition on the smoking of medical marijuana in public places;
3. Maintain copies of the policies and procedures at the dispensary and provide copies to the Department for review upon request;
4. Review dispensary policies and procedures at least once every 12 months from the issue date of the dispensary registration certificate and update as needed;
5. Employ or contract with a medical director;
6. Ensure that each dispensary agent has the dispensary agent's registry identification card in the dispensary agent's immediate possession when the dispensary agent is:
  - a. Working or providing volunteer services at the dispensary or the dispensary's cultivation site, or
  - b. Transporting marijuana for the dispensary;

7. Ensure that a dispensary agent accompanies any individual other than another dispensary agent associated with the dispensary when the individual is present in the enclosed, locked facility where marijuana is cultivated by the dispensary;
8. Not allow an individual who does not possess a dispensary agent registry identification card issued under the dispensary registration certificate to:
  - a. Serve as a principal officer or board member for the dispensary,
  - b. Serve as the medical director for the dispensary,
  - c. Be employed by the dispensary, or
  - d. Provide volunteer services at or on behalf of the dispensary;
9. Provide written notice to the Department, including the date of the event, within 10 working days after the date, when a dispensary agent no longer:
  - a. Serves as a principal officer or board member for the dispensary,
  - b. Serves as the medical director for the dispensary,
  - c. Is employed by the dispensary, or
  - d. Provides volunteer services at or on behalf of the dispensary;
10. Document and report any loss or theft of marijuana from the dispensary to the appropriate law enforcement agency;
11. Maintain copies of any documentation required in this Chapter for at least 12 months after the date on the documentation and provide copies of the documentation to the Department for review upon request;
12. Post the following information in a place that can be viewed by individuals entering the dispensary:
  - a. If applicable, the dispensary's approval to operate;
  - b. The dispensary's registration certificate;
  - c. The name of the dispensary's medical director and the medical director's license number on a sign at least 20 centimeters by 30 centimeters;
  - d. The hours of operation during which the dispensary will dispense medical marijuana to a qualifying patient or a designated caregiver; and
  - e. A sign in a Department-provided format that contains the following language:
    - i. "WARNING: There may be potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding;" and
    - ii. "WARNING: Use of marijuana during pregnancy may result in a risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;"
13. Not lend any part of the dispensary's income or property without receiving adequate security and a reasonable rate of interest;
14. Not purchase property for more than adequate consideration in money or cash equivalent;
15. Not pay compensation for salaries or other compensation for personal services that is in excess of a reasonable allowance;
16. Not sell any part of the dispensary's property or equipment for less than adequate consideration in money or cash equivalent; and
17. Not engage in any other transaction that results in a substantial diversion of the dispensary's income or property.

**B.** If a dispensary cultivates marijuana, the dispensary shall cultivate the marijuana in an enclosed, locked facility.



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**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). Amended by final rulemaking at 23 A.A.R. 970, effective June 6, 2017 (Supp. 17-2).

**R9-17-311. Submitting an Application for a Dispensary Agent Registry Identification Card**

Except as provided in R9-17-107(F), to obtain a dispensary agent registry identification card for an individual serving as a principal officer or board member for the dispensary, employed by the dispensary, or providing volunteer services at or on behalf of the dispensary, the dispensary shall submit to the Department the following for each dispensary agent:

1. An application in a Department-provided format that includes:
  - a. The dispensary agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The dispensary agent's residence address and mailing address;
  - c. The county where the dispensary agent resides;
  - d. The dispensary agent's date of birth;
  - e. The identifying number on the applicable card or document in subsection (5)(a) through (e);
  - f. The name and registry identification number of the dispensary; and
  - g. The signature of the individual in R9-17-304(C)(1)(d) or R9-17-308(B)(1)(e), as applicable, designated to submit dispensary agent applications on the dispensary's behalf and the date the individual signed;
2. An attestation signed and dated by the dispensary agent that the dispensary agent has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
3. One of the following:
  - a. A statement that the dispensary agent does not currently hold a valid registry identification card, or
  - b. The assigned registry identification number for the dispensary agent for each valid registry identification card currently held by the dispensary agent;
4. A statement in a Department-provided format signed by the dispensary agent pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
5. A copy of the dispensary agent's:
  - a. Arizona driver's license issued on or after October 1, 1996;
  - b. Arizona identification card issued on or after October 1, 1996;
  - c. Arizona registry identification card;
  - d. Photograph page in the dispensary agent's U.S. passport; or
  - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the dispensary agent:
    - i. Birth certificate verifying U.S. citizenship,
    - ii. U.S. Certificate of Naturalization, or
    - iii. U.S. Certificate of Citizenship;
6. A current photograph of the dispensary agent;
7. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
  - a. The dispensary agent's fingerprints on a fingerprint card that includes:
    - i. The dispensary agent's first name; middle initial, if applicable; and last name;

- ii. The dispensary agent's signature;
  - iii. If different from the dispensary agent, the signature of the individual physically rolling the dispensary agent's fingerprints;
  - iv. The dispensary agent's address;
  - v. If applicable, the dispensary agent's surname before marriage and any names previously used by the dispensary agent;
  - vi. The dispensary agent's date of birth;
  - vii. The dispensary agent's Social Security number;
  - viii. The dispensary agent's citizenship status;
  - ix. The dispensary agent's gender;
  - x. The dispensary agent's race;
  - xi. The dispensary agent's height;
  - xii. The dispensary agent's weight;
  - xiii. The dispensary agent's hair color;
  - xiv. The dispensary agent's eye color; and
  - xv. The dispensary agent's place of birth; or
  - b. If the dispensary agent's fingerprints and information required in subsection (7)(a) were submitted to the Department within the previous six months as part of an application for a designated caregiver registry identification card or a dispensary agent registry identification card for another dispensary, the registry identification number on the registry identification card issued to the dispensary agent as a result of the application; and
8. The applicable fee in R9-17-102 for applying for a dispensary agent registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-312. Submitting an Application to Renew a Dispensary Agent's Registry Identification Card**

To renew a dispensary agent's registry identification card for an individual serving as a principal officer or board member for the dispensary, employed by the dispensary, or providing volunteer services at or on behalf of the dispensary, the dispensary shall submit to the Department, at least 30 calendar days before the expiration of the dispensary agent's registry identification card, the following:

1. An application in a Department-provided format that includes:
  - a. The dispensary agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The dispensary agent's residence address and mailing address;
  - c. The county where the dispensary agent resides;
  - d. The dispensary agent's date of birth;
  - e. The registry identification number on the dispensary agent's current registry identification card;
  - f. The name and registry identification number of the dispensary; and
  - g. The signature of the individual in R9-17-304(C)(1)(d) or R9-17-308(B)(1)(e) designated to submit dispensary agent applications on the dispensary's behalf and the date the individual signed;
2. If the dispensary agent's name in subsection (1)(a) is not the same name as on the dispensary agent's current regis-

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- try identification card, one of the following with the dispensary agent's new name:
- a. An Arizona driver's license;
  - b. An Arizona identification card, or
  - c. The photograph page in the dispensary agent's U.S. passport;
3. A statement in a Department-provided format signed by the dispensary agent pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  4. A current photograph of the dispensary agent;
  5. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - a. The dispensary agent's fingerprints on a fingerprint card that includes:
      - i. The dispensary agent's first name; middle initial, if applicable; and last name;
      - ii. The dispensary agent's signature;
      - iii. If different from the dispensary agent, the signature of the individual physically rolling the dispensary agent's fingerprints;
      - iv. The dispensary agent's address;
      - v. If applicable, the dispensary agent's surname before marriage and any names previously used by the dispensary agent;
      - vi. The dispensary agent's date of birth;
      - vii. The dispensary agent's Social Security number;
      - viii. The dispensary agent's citizenship status;
      - ix. The dispensary agent's gender;
      - x. The dispensary agent's race;
      - xi. The dispensary agent's height;
      - xii. The dispensary agent's weight;
      - xiii. The dispensary agent's hair color;
      - xiv. The dispensary agent's eye color; and
      - xv. The dispensary agent's place of birth; or
    - b. If the dispensary agent's fingerprints and information required in subsection (5)(a) were submitted to the Department within the previous six months as part of an application for a designated caregiver registry identification card or a dispensary agent registry identification card for another dispensary, the registry identification number on the registry identification card issued to the dispensary agent as a result of the application; and
  6. The applicable fee in R9-17-102 for applying to renew a dispensary agent's registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-313. Medical Director**

- A. A dispensary shall appoint an individual who is a physician to function as a medical director.
- B. During a dispensary's hours of operation, a medical director or an individual who is a physician and is designated by the medical director to serve as medical director in the medical director's absence is:
  1. Onsite; or
  2. Able to be contacted by any means possible, such as by telephone or pager.

- C. A medical director shall:
  1. Develop and provide training to the dispensary's dispensary agents at least once every 12 months from the initial date of the dispensary's registration certificate on the following subjects:
    - a. Guidelines for providing information to qualifying patients related to risks, benefits, and side effects associated with medical marijuana;
    - b. Guidelines for providing support to qualifying patients related to the qualifying patient's self-assessment of the qualifying patient's symptoms, including a rating scale for pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, and agitation;
    - c. Recognizing signs and symptoms of substance abuse; and
    - d. Guidelines for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana; and
  2. Assist in the development and implementation of review and improvement processes for patient education and support provided by the dispensary.
- D. A medical director shall provide oversight for the development and dissemination of:
  1. Educational materials for qualifying patients and designated caregivers that include:
    - a. Alternative medical options for the qualifying patient's debilitating medical condition;
    - b. Information about possible side effects of and contraindications for medical marijuana including possible impairment with use and operation of a motor vehicle or heavy machinery, when caring for children, or of job performance;
    - c. Guidelines for notifying the physician who provided the written certification for medical marijuana if side effects or contraindications occur;
    - d. A description of the potential for differing strengths of medical marijuana strains and products;
    - e. Information about potential drug-to-drug interactions, including interactions with alcohol, prescription drugs, non-prescription drugs, and supplements;
    - f. Techniques for the use of medical marijuana and marijuana paraphernalia;
    - g. Information about different methods, forms, and routes of medical marijuana administration;
    - h. Signs and symptoms of substance abuse, including tolerance, dependency, and withdrawal; and
    - i. A listing of substance abuse programs and referral information;
  2. A system for a qualifying patient or the qualifying patient's designated caregiver to document the qualifying patient's pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, or agitation that includes:
    - a. A log book, maintained by the qualifying patient and or the qualifying patient's designated caregiver, in which the qualifying patient or the qualifying patient's designated caregiver may track the use and effects of specific medical marijuana strains and products;
    - b. A rating scale for pain, cachexia or wasting syndrome, nausea, seizures, muscles spasms, and agitation;
    - c. Guidelines for the qualifying patient's self-assessment or, if applicable, assessment of the qualifying patient by the qualifying patient's designated caregiver; and



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- d. Guidelines for reporting usage and symptoms to the physician providing the written certification for medical marijuana and any other treating physicians; and
- 3. Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana.
- E. A medical director for a dispensary shall not provide a written certification for medical marijuana for any qualifying patient.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-314. Dispensing Medical Marijuana**

Before a dispensary agent dispenses medical marijuana to a qualifying patient or a designated caregiver, the dispensary agent shall:

1. Verify the qualifying patient's or the designated caregiver's identity,
2. Offer any appropriate patient education or support materials,
3. Enter the qualifying patient's or designated caregiver's registry identification number on the qualifying patient's or designated caregiver's registry identification card into the medical marijuana electronic verification system,
4. Verify the validity of the qualifying patient's or designated caregiver's registry identification card,
5. Verify that the amount of medical marijuana the qualifying patient or designated caregiver is requesting would not cause the qualifying patient to exceed the limit on obtaining no more than two and one-half ounces of medical marijuana during any 14-calendar-day period, and
6. Enter the following information into the medical marijuana electronic verification system for the qualifying patient or designated caregiver:
  - a. The amount of medical marijuana dispensed,
  - b. Whether the medical marijuana was dispensed to the qualifying patient or to the qualifying patient's designated caregiver,
  - c. The date and time the medical marijuana was dispensed,
  - d. The dispensary agent's registry identification number, and
  - e. The dispensary's registry identification number.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-315. Qualifying Patient Records**

- A. A dispensary shall ensure that:
  1. A qualifying patient record is established and maintained for each qualifying patient who obtains medical marijuana from the dispensary;
  2. An entry in a qualifying patient record:
    - a. Is recorded only by a dispensary agent authorized by dispensary policies and procedures to make an entry,
    - b. Is dated and signed by the dispensary agent,
    - c. Includes the dispensary agent's registry identification number, and
    - d. Is not changed to make the initial entry illegible;
  3. If an electronic signature is used to sign an entry, the dispensary agent whose signature the electronic code represents is accountable for the use of the electronic signature;
  4. A qualifying patient record is only accessed by a dispensary agent authorized by dispensary policies and procedures to access the qualifying patient record;

5. A qualifying patient record is provided to the Department for review upon request;
6. A qualifying patient record is protected from loss, damage, or unauthorized use; and
7. A qualifying patient record is maintained for five years from the date of the qualifying patient's or, if applicable, the qualifying patient's designated caregiver's last request for medical marijuana from the dispensary.

- B. If a dispensary maintains qualifying patient records electronically, the dispensary shall ensure that:
  1. There are safeguards to prevent unauthorized access, and
  2. The date and time of an entry in a qualifying patient record is recorded electronically by an internal clock.
- C. A dispensary shall ensure that the qualifying patient record for a qualifying patient who requests or whose designated caregiver on behalf of the qualifying patient requests medical marijuana from the dispensary contains:
  1. Qualifying patient information that includes:
    - a. The qualifying patient's name;
    - b. The qualifying patient's date of birth; and
    - c. The name of the qualifying patient's designated caregiver, if applicable;
  2. Documentation of any patient education and support materials provided to the qualifying patient or the qualifying patient's designated caregiver, including a description of the materials and the date the materials were provided;
  3. For each time the qualifying patient requests and does not obtain medical marijuana or, if applicable, the designated caregiver requests on behalf of the qualifying patient and does not obtain medical marijuana from the dispensary, the following:
    - a. The date,
    - b. The name and registry identification number of the individual who requested the medical marijuana, and
    - c. The dispensary's reason for refusing to provide the medical marijuana.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-316. Inventory Control System**

- A. A dispensary shall designate in writing a dispensary agent who has oversight of the dispensary's medical marijuana inventory control system.
- B. A dispensary shall only acquire marijuana from:
  1. The dispensary's cultivation site,
  2. Another dispensary or another dispensary's cultivation site,
  3. A qualifying patient authorized by the Department to cultivate marijuana, or
  4. A designated caregiver authorized by the Department to cultivate marijuana.
- C. A dispensary shall establish and implement an inventory control system for the dispensary's medical marijuana that documents:
  1. Each day's beginning inventory, acquisitions, harvests, sales, disbursements, disposal of unusable marijuana, and ending inventory;
  2. For acquiring medical marijuana from a qualifying patient or designated caregiver:
    - a. A description of the medical marijuana acquired including the amount and strain,

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- b. The name and registry identification number of the qualifying patient or designated caregiver who provided the medical marijuana;
  - c. The name and registry identification number of the dispensary agent receiving the medical marijuana on behalf of the dispensary; and
  - d. The date of acquisition;
- 3. For acquiring medical marijuana from another dispensary:
  - a. A description of the medical marijuana acquired including the amount, strain, and batch number;
  - b. The name and registry identification number of the dispensary providing the medical marijuana;
  - c. The name and registry identification number of the dispensary agent providing the medical marijuana;
  - d. The name and registry identification number of the dispensary agent receiving the medical marijuana on behalf of the dispensary; and
  - e. The date of acquisition;
- 4. For each batch of marijuana cultivated:
  - a. The batch number;
  - b. Whether the batch originated from marijuana seeds or marijuana cuttings;
  - c. The origin and strain of the marijuana seeds or marijuana cuttings planted;
  - d. The number of marijuana seeds or marijuana cuttings planted;
  - e. The date the marijuana seeds or cuttings were planted;
  - f. A list of all chemical additives, including nonorganic pesticides, herbicides, and fertilizers used in the cultivation;
  - g. The number of plants grown to maturity;
  - h. Harvest information including:
    - i. Date of harvest,
    - ii. Final processed usable marijuana yield weight, and
    - iii. Name and registry identification number of the dispensary agent responsible for the harvest, and
  - i. The disposal of medical marijuana that is not usable marijuana including the:
    - i. Description of and reason for the marijuana being disposed of including, if applicable, the number of failed or other unusable plants;
    - ii. Date of disposal;
    - iii. Method of disposal; and
    - iv. Name and registry identification number of the dispensary agent responsible for the disposal;
- 5. For providing medical marijuana to another dispensary:
  - a. The amount, strain, and batch number of medical marijuana provided;
  - b. The name and registry identification number of the other dispensary;
  - c. The name and registry identification number of the dispensary agent who received the medical marijuana on behalf of the other dispensary; and
  - d. The date the medical marijuana was provided; and
- 6. For receiving edible food products infused with medical marijuana from another dispensary:
  - a. A description of the edible food products received from the dispensary including total weight of each edible food product and estimated amount and batch number of the medical marijuana infused in each edible food product,
  - b. Total estimated amount and batch number of medical marijuana infused in the edible food products,
  - c. The name and registry identification number of the:
    - i. Dispensary and the dispensary agent providing the edible food products to the receiving dispensary, and
    - ii. Dispensary agent receiving the edible food products on behalf of the receiving dispensary, and
  - d. The date the edible food products were provided to the dispensary.
- D. The individual designated in subsection (A) shall conduct and document an audit of the dispensary's inventory that is accounted for according to generally accepted accounting principles at least once every 30 calendar days.
  - 1. If the audit identifies a reduction in the amount of medical marijuana in the dispensary's inventory not due to documented causes, the dispensary shall determine where the loss has occurred and take and document corrective action.
  - 2. If the reduction in the amount of medical marijuana in the dispensary's inventory is due to suspected criminal activity by a dispensary agent, the dispensary shall report the dispensary agent to the Department and to the local law enforcement authorities.
- E. A dispensary shall:
  - 1. Maintain the documentation required in subsections (C) and (D) at the dispensary for five years from the date on the document, and
  - 2. Provide the documentation required in subsections (C) and (D) to the Department for review upon request.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-317. Product Labeling and Analysis**

- A. A dispensary shall ensure that medical marijuana provided by the dispensary to a qualifying patient or a designated caregiver is labeled with:
  - 1. The dispensary's registry identification number;
  - 2. The amount, strain, and batch number of medical marijuana;
  - 3. The following statement: "ARIZONA DEPARTMENT OF HEALTH SERVICES' WARNING: Marijuana use can be addictive and can impair an individual's ability to drive a motor vehicle or operate heavy machinery. Marijuana smoke contains carcinogens and can lead to an increased risk for cancer, tachycardia, hypertension, heart attack, and lung infection. KEEP OUT OF REACH OF CHILDREN";
  - 4. If not cultivated by the dispensary, whether the medical marijuana was obtained from a qualifying patient, a designated caregiver, or another dispensary;
  - 5. The date of manufacture, harvest, or sale;
  - 6. A list of all chemical additives, including nonorganic pesticides, herbicides, and fertilizers, used in the cultivation and production of the medical marijuana; and
  - 7. The registry identification number of the qualifying patient.
- B. If a dispensary provides medical marijuana cultivated by the dispensary to another dispensary, the dispensary shall ensure that the medical marijuana is labeled with:
  - 1. The dispensary's registry identification number;
  - 2. The amount, strain, and batch number of the medical marijuana;
  - 3. The date of harvest or sale; and

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4. A list of all chemical additives, including nonorganic pesticides, herbicides, and fertilizers, used in the cultivation of the medical marijuana.
- C. If medical marijuana is provided as part of an edible food product, a dispensary shall, in addition to the information in subsection (A), include on the label the total weight of the edible food product.
- D. A dispensary shall provide to the Department upon request a sample of the dispensary's medical marijuana inventory of sufficient quantity to enable the Department to conduct an analysis of the medical marijuana.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-318. Security**

- A. Except as provided in R9-17-310(A)(7), a dispensary shall ensure that access to the enclosed, locked facility where marijuana is cultivated is limited to the dispensary's principal officers, board members, and authorized dispensary agents.
- B. A dispensary agent may transport marijuana, marijuana plants, and marijuana paraphernalia between the dispensary and:
  1. The dispensary's cultivation site,
  2. A qualifying patient, and
  3. Another dispensary.
- C. Before transportation, a dispensary agent shall:
  1. Complete a trip plan that includes:
    - a. The name of the dispensary agent in charge of transporting the marijuana;
    - b. The date and start time of the trip;
    - c. A description of the marijuana, marijuana plants, or marijuana paraphernalia being transported; and
    - d. The anticipated route of transportation; and
  2. Provide a copy of the trip plan in subsection (C)(1) to the dispensary.
- D. During transportation, a dispensary agent shall:
  1. Carry a copy of the trip plan in subsection (C)(1) with the dispensary agent for the duration of the trip;
  2. Use a vehicle without any medical marijuana identification;
  3. Have a means of communication with the dispensary; and
  4. Ensure that the marijuana, marijuana plants, or marijuana paraphernalia are not visible.
- E. After transportation, a dispensary agent shall enter the end time of the trip and any changes to the trip plan on the trip plan required in subsection (C)(1).
- F. A dispensary shall:
  1. Maintain the documents required in subsection (C)(2) and (E), and
  2. Provide a copy of the documents required in subsection (C)(2) and (E) to the Department for review upon request.
- G. To prevent unauthorized access to medical marijuana at the dispensary and, if applicable, the dispensary's cultivation site, the dispensary shall have the following:
  1. Security equipment to deter and prevent unauthorized entrance into limited access areas that include:
    - a. Devices or a series of devices to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular, private radio signals, or other mechanical or electronic device;
    - b. Exterior lighting to facilitate surveillance;
    - c. Electronic monitoring including:
      - i. At least one 19-inch or greater call-up monitor,
  - ii. A video printer capable of immediately producing a clear still photo from any video camera image,
  - iii. Video cameras:
    - (1) Providing coverage of all entrances to and exits from limited access areas and all entrances to and exits from the building, capable of identifying any activity occurring in or adjacent to the building; and
    - (2) Having a recording resolution of at least 704 x 480 or the equivalent;
  - iv. A video camera at each point of sale location allowing for the identification of any qualifying patient or designated caregiver purchasing medical marijuana,
  - v. A video camera in each grow room capable of identifying any activity occurring within the grow room in low light conditions,
  - vi. Storage of video recordings from the video cameras for at least 30 calendar days,
  - vii. A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system, and
  - viii. Sufficient battery backup for video cameras and recording equipment to support at least five minutes of recording in the event of a power outage; and
- d. Panic buttons in the interior of each building; and
2. Policies and procedures:
  - a. That restrict access to the areas of the dispensary that contain marijuana and if applicable, the dispensary's cultivation site to authorized individuals only;
  - b. That provide for the identification of authorized individuals;
  - c. That prevent loitering;
  - d. For conducting electronic monitoring; and
  - e. For the use of a panic button.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-319. Edible Food Products**

- A. A dispensary that prepares, sells, or dispenses marijuana-infused edible food products shall:
  1. Before preparing, selling, or dispensing marijuana-infused edible food product obtain written authorization from the Department to prepare, sell, or dispense marijuana-infused edible food products;
  2. If the dispensary prepares the marijuana-infused edible food products, ensure that the marijuana-infused edible food products are prepared according to the applicable requirements in 9 A.A.C. 8, Article 1;
  3. If the marijuana-infused edible food products are not prepared at the dispensary, obtain and maintain at the dispensary a copy of the current written authorization to prepare marijuana-infused edible food products from the dispensary that prepares the marijuana-infused edible products; and
  4. If a dispensary sells or dispenses marijuana-infused edible food products, ensure that the marijuana-infused edible food products are sold or dispensed according to applicable requirements in 9 A.A.C. 8, Article 1.
- B. A dispensary is responsible for the content and quality of any edible food product sold or dispensed by the dispensary.

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**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R.  
734, effective April 14, 2011 (Supp. 11-2).

**R9-17-320. Cleaning and Sanitation**

- A.** A dispensary shall ensure that any building or equipment used by a dispensary for the cultivation, harvest, preparation, packaging, storage, infusion, or sale of medical marijuana is maintained in a clean and sanitary condition.
1. Medical marijuana in the process of production, preparation, manufacture, packing, storage, sale, distribution, or transportation is protected from flies, dust, dirt, and all other contamination.
  2. Refuse or waste products incident to the manufacture, preparation, packing, selling, distributing, or transportation of medical marijuana are removed from the building used as a dispensary and, if applicable, a building at the dispensary's cultivation site at least once every 24 hours or more often as necessary to maintain a clean condition.
  3. All trucks, trays, buckets, other receptacles, platforms, racks, tables, shelves, knives, saws, cleavers, other utensils, or the machinery used in moving, handling, cutting, chopping, mixing, canning, packaging, or other processes are cleaned daily.
  4. All stored edible food products are securely covered.
- B.** A dispensary shall ensure that a dispensary agent at the dispensary or the dispensary's cultivation site:
1. Cleans the dispensary agent's hands and exposed portions of the dispensary agent's arms in a hand washing sink:
    - a. Before preparing medical marijuana including working with food, equipment, and utensils;
    - b. During preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks;
    - c. After handling soiled equipment or utensils;
    - d. After touching bare human body parts other than the dispensary agent's clean hands and exposed portions of arms; and
    - e. After using the toilet room;
  2. If working directly with the preparation of medical marijuana or the infusion of marijuana into non-edible products:
    - a. Keeps the dispensary agent's fingernails trimmed, filed, and maintained so that the edges and surfaces are cleanable;
    - b. Unless wearing intact gloves in good repair, does not have fingernail polish or artificial fingernails on the dispensary agent's fingernails; and
    - c. Wears protective apparel such as coats, aprons, gowns, or gloves to prevent contamination;
  3. Wears clean clothing appropriate to assigned tasks;
  4. Reports to the medical director any health condition experienced by the dispensary agent that may adversely affect the safety or quality of any medical marijuana with which the dispensary agent may come into contact; and
  5. If the medical director determines that a dispensary agent has a health condition that may adversely affect the safety or quality of the medical marijuana, is prohibited from direct contact with any medical marijuana or equipment or materials for processing medical marijuana until the medical director determines that the dispensary agent's health condition will not adversely affect the medical marijuana.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R.

734, effective April 14, 2011 (Supp. 11-2).

**R9-17-321. Physical Plant**

- A.** A dispensary or a dispensary's cultivation site shall be located at least 500 feet from a private school or a public school that existed before the date the dispensary submitted the initial dispensary registration certificate application.
- B.** A dispensary shall provide onsite parking or parking adjacent to the building used as the dispensary.
- C.** A building used as a dispensary or the location used as a dispensary's cultivation site shall have:
1. At least one toilet room;
  2. Each toilet room shall contain:
    - a. A flushable toilet;
    - b. Mounted toilet tissue;
    - c. A sink with running water;
    - d. Soap contained in a dispenser; and
    - e. Disposable, single-use paper towels in a mounted dispenser or a mechanical air hand dryer;
  3. At least one hand washing sink not located in a toilet room;
  4. Designated storage areas for medical marijuana or materials used in direct contact with medical marijuana separate from storage areas for toxic or flammable materials; and
  5. If preparation or packaging of medical marijuana is done in the building, a designated area for the preparation or packaging that:
    - a. Includes work space that can be sanitized, and
    - b. Is only used for the preparation or packaging of medical marijuana.
- D.** For each commercial device used at a dispensary or the dispensary's cultivation site, the dispensary shall:
1. Ensure that the commercial device is licensed or certified pursuant to A.R.S. § 41-2091,
  2. Maintain documentation of the commercial device's license or certification, and
  3. Provide a copy of the commercial device's license or certification to the Department for review upon request.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R.  
734, effective April 14, 2011 (Supp. 11-2).

**R9-17-322. Denial or Revocation of a Dispensary Registration Certificate**

- A.** The Department shall deny an application for a dispensary registration certificate or a renewal if:
1. For an application for a dispensary registration certificate, the physical address of the building or, if applicable, the physical address of the dispensary's cultivation site is within 500 feet of a private school or a public school that existed before the date the dispensary submitted the initial dispensary registration certificate application;
  2. A principal officer or board member:
    - a. Has been convicted of an excluded felony offense;
    - b. Has served as a principal officer or board member for a dispensary that:
      - i. Had the dispensary registration certificate revoked, or
      - ii. Did not obtain an approval to operate the dispensary within the first year after the dispensary registration certificate was issued;
    - c. Is under 21 years of age;
    - d. Is a physician currently providing written certifications for medical marijuana for qualifying patients;
    - e. Is a law enforcement officer; or
    - f. Is an employee or contractor of the Department; or



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3. The application or the dispensary does not comply with the requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter.
- B. The Department may deny an application for a dispensary registration certificate if a principal officer or board member of the dispensary provides false or misleading information to the Department.
- C. The Department shall revoke a dispensary's registration certificate if:
  1. The dispensary:
    - a. Operates before obtaining approval to operate a dispensary from the Department;
    - b. Dispenses, delivers, or otherwise transfers marijuana to an entity other than another dispensary with a valid dispensary registration certificate issued by the Department, a qualifying patient with a valid registry identification card, or a designated caregiver with a valid registry identification card; or
    - c. Acquires usable marijuana or mature marijuana plants from any entity other than another dispensary with a valid dispensary registration certificate issued by the Department, a qualifying patient with a valid registry identification card, or a designated caregiver with a valid registry identification card; or
  2. A principal officer or board member has been convicted of an excluded felony offense.
- D. The Department may revoke a dispensary registration certificate if the dispensary does not:
  1. Comply with the requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter; or
  2. Implement the policies and procedures or comply with the statements provided to the Department with the dispensary's application.
- E. If the Department denies a dispensary registration certificate application, the Department shall provide notice to the applicant that includes:
  1. The specific reason or reasons for the denial, and
  2. All other information required by A.R.S. § 41-1076.
- F. If the Department revokes a dispensary registration certificate, the Department shall provide notice to the dispensary that includes:
  1. The specific reason or reasons for the revocation; and
  2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-323. Denial or Revocation of a Dispensary Agent's Registry Identification Card**

- A. The Department shall deny a dispensary agent's application for or renewal of the dispensary agent's registry identification card if the dispensary agent:
  1. Does not meet the requirements in A.R.S. § 36-2801(10); or
  2. Previously had a registry identification card revoked for not complying with A.R.S. Title 36, Chapter 28.1 or this Chapter.
- B. The Department may deny a dispensary agent's application for or renewal of the dispensary agent's registry identification card if the dispensary agent provides false or misleading information to the Department.
- C. The Department shall revoke a dispensary agent's registry identification card if the dispensary agent:
  1. Uses medical marijuana, if the dispensary agent does not have a qualifying patient registry identification card;
  2. Diverts medical marijuana to an individual who is not authorized to possess medical marijuana under A.R.S. Title 36, Chapter 28.1; or
  3. Has been convicted of an excluded felony offense.
- D. The Department may revoke a dispensary agent's registry identification card if the dispensary agent knowingly violates A.R.S. Title 36, Chapter 28.1 or this Chapter.
- E. If the Department denies or revokes a dispensary agent's registry identification card, the Department shall provide notice to the dispensary agent and the dispensary agent's dispensary that includes:
  1. The specific reason or reasons for the denial or revocation; and
  2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).